

FORM 26

Purpose: to Record an Interest in a Parcel; or
to Record a Power of Attorney in the Power of Attorney Roll

Case 01145 (2009)
• 8 units
• 8 additional by ADA

For Office Use

Registration District: Halifax
Submitter's User Number: 1544
Submitter's Name: Martin W. Jones/Russell Piggott Jones

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

Kim MacKay, Registrar

93061001

LRD ROD

IN THE MATTER OF Parcel Identification Number (PID)

MAR 31 2009

MM DD YYYY

Time

PID:	398552
PID:	40414633

Take notice that the undersigned hereby requests that the registrar record the attached document
(select applicable box):

- ☒ in the parcel register as a recorded interest
☐ in the power of attorney roll
☐ power of attorney registered under the *Registry Act*, for duplication in the power of attorney roll.

And further take notice that the following information relates to the interest being recorded:

Instrument type/code	Agreement re Use of Land (Development Agreement)
Expiry date (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
Mailing address of interest holder added (if applicable) (includes judgment creditor or grantee of power of attorney)	5251 Duke Street, Halifax, NS B3J 3A5
Name and mailing address power of attorney donor to be Added (if applicable)	N/A
Reference to related instrument in names-based roll/parcel register (if applicable) (for power of attorney to be duplicated, insert document/instrument number/year; include book/page if applicable)	N/A

AND FURTHER TAKE NOTICE THAT the attached document is signed by an 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
☒ no Power of Attorney applies to this document

DATED at Dartmouth, in the County of Halifax, Province of Nova Scotia this 10 day of March, 2009.

Originally Signed

Signature of Interest holder/agent

Martin W. Jones

Address:

Suite 500 - 44 Portland Street

PO Box 913

Dartmouth, Nova Scotia B2Y 3Z6

Phone: 902-469-3030

E-Mail: mjones@rpj.ns.ca

Fax: 902-465-3751

- ☐ 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..

THIS AGREEMENT made this ^{20th} day of *March*, 2009,

BETWEEN:

B.A.E. DEVELOPMENTS LTD.
a body corporate, in the Halifax Regional Municipality,
Province of Nova Scotia (hereinafter called the "Developer")

OF THE FIRST PART

- and -

APPROVED
Originally Signed

[Signature]

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate,
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located on Evergreen Drive, PIDs 00398522 and 40414633, Cole Harbour 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 a two-phase townhouse development comprising 16 dwelling units on the Lands pursuant to the provisions of the Municipal Government Act and pursuant to Policies UR-8 and IM-11 of the Cole Harbour/Westphal Municipal Planning Strategy;

AND WHEREAS the Harbour East Community Council approved this request at a meeting held on December 4, 2008, referenced as Municipal Case Number 01145;

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 Regional Subdivision By-law

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

1.3 Applicability of Other By-laws, Statutes and Regulations

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 Owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.

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 HRM 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.

1.4 Conflict

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.

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 regulations, by-laws or codes applicable to any 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** All words unless otherwise specifically defined herein shall be as defined in the Cole Harbor/Westphal Land Use By-law and the Regional Subdivision By-law.

PART 3: USE OF LANDS AND DEVELOPMENT PROVISIONS

3.1 Schedules and Development of the Lands

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the Schedules attached to this Agreement and the plans filed in the Halifax Regional Municipality as 'Case Number 01145'.

The schedules are:

- Schedule A: Legal Description of the Lands
- Schedule B: Concept Plan
- Schedule C: Preliminary Landscaping Plan
- Schedule D: Building Elevations

3.2 Requirements Prior to Approval

- 3.2.1** Prior to construction of any Phase or portion thereof, the Developer agrees to enter into a Municipal Service Agreement with the Municipality that conforms with the provisions of the Regional Subdivision By-Law, the Municipal Service System Design Guidelines and this Agreement.

3.2.2 Prior to the issuance of a Development Permit, the Developer shall submit the following unless otherwise stated by the Municipality:

- (a) A Stormwater Management Plan, Erosion and Sedimentation Control Plan and Master Site/Grading Plan prepared by a qualified Professional Engineer and in accordance with Part 5 (Environmental Protection) of this Agreement; and
- (b) Plans and details regarding the proposed sewer and water servicing and the proposed extension of Evergreen Drive prepared by a qualified Professional Engineer and in accordance with Part 4 (Streets and Municipal Services) of this Agreement.

3.2.3 Prior to the issuance of a Construction Permit, the Developer shall provide the following to the Development Officer, unless otherwise stated by the Municipality:

- (a) Lighting Plan in accordance with Section 3.7 of this Agreement;
- (b) Landscaping Plan in accordance with Section 3.8 of this Agreement; and
- (c) Certification, to the satisfaction of the Development Officer, that an opaque fence, required pursuant to Section 3.9 of this Agreement, has been erected on the applicable Phase(s) of the Lands subject to the permit application(s), as illustrated on Schedule B.

3.2.4 Prior to the issuance of the first Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise stated by the Municipality:

- (a) Written confirmation from the Development Engineer indicating compliance with Part 4 of this Agreement;
- (b) Certification from a qualified Professional Engineer that the Developer has complied with the required Erosion and Sedimentation Control Plan required pursuant to Part 5 of this Agreement;
- (c) Certification from a qualified Professional Engineer indicating that the Developer has complied with the Stormwater Management Plan and Master/Site Grading Plan required pursuant to Part 5 of this Agreement;
- (d) Confirmation from the Development Officer that the requirements of Section 3.7 (Lighting Plan) have been satisfied; and
- (e) Certification from a professional Landscape Architect indicating that the Developer has complied with the Landscaping Plan required pursuant to Section 3.8 of this Agreement.

~~3.2.5 Both parties agree that initial development of the Lands shall be limited to a maximum~~

of 8 dwelling units. Development of a maximum of 8 additional townhouse units shall be permitted as generally illustrated on Schedule B, provided that the following conditions are met:

Deleted.
ADA (second)

- (a) The Municipality has determined that there is adequate capacity in the sanitary sewer system to service the additional development;
- (b) Council has approved a non-substantive amendment to this Agreement to permit the additional development, in accordance with Subsection 6.2 (e) of this Agreement; and
- (c) The additional development conforms with all terms and conditions of this Agreement.

3.2.6 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

The use of the Lands permitted by this Agreement are the following:

Added.
2nd ADA

- (a) A townhouse development consisting of a maximum of 8 dwelling units within the area identified on Schedule B as Phase 1, and a maximum of 8 additional dwelling units within the area identified on Schedule B as Phase 2.
- (b) Both parties agree that, notwithstanding any other provision of this Agreement, development of a maximum of 8 dwelling units comprising Phase 2 of the proposal may be developed provided that the requirements set out in Sections 3.2.5 and 6.3 (e) of this Agreement have been met; and
- (c) Any use permitted within the Single Unit Dwelling (R-1) Zone, subject to the provisions contained within the Cole Harbor/Westphal Land Use By-law, provided that no more than 8 dwelling units are developed on the Lands unless approved pursuant to Sub-section 6.2 (c) of this Agreement.

Deleted.
2nd ADA

3.4 Detailed Provisions for Land Use

3.4.1 All townhouse dwellings must meet the requirements of the Townhouse (R-5) Zone, as set out in the Cole Harbour/Westphal Land Use By-law except where specifically varied by this Agreement.

3.4.2 Notwithstanding the frontage and area requirements set out in Section 11.2 of the Cole Harbour/Westphal Land Use By-law, the following shall be permitted pursuant to this Agreement:

(a) A maximum of 8 townhouse dwelling units shall be permitted on a single lot in each phase of the development as illustrated on Schedule B; and

2nd App. (b) The minimum lot frontage requirements shall be waived provided that no more than 8 dwelling units are located within each phase and access to each phase is provided via a shared private driveway that meets all applicable standards and specifications for a commercial driveway in the opinion of the Development Engineer. *or shared private driveway that meet*

3.4.3 Notwithstanding Subsection 11.3 (c) of the Cole Harbour/Westphal Land Use By-law, the Development Officer may approve alterations to the exterior of one or more dwelling units, provided that such alterations are consistent with the intent of this Agreement with regard to colour, materials, design and any other matter deemed applicable by the Development Officer.

3.4.4 The Developer agrees that each Phase of the townhouse development, as illustrated on Schedule B of this Agreement, shall be owned and managed by a single legal entity such as a Condominium Corporation or equivalent. A Condominium Corporation By-law or equivalent, shall be submitted to the Development Officer prior to the issuance of a Construction Permit for any units proposed within each Phase. The By-law shall include provisions for external building facade maintenance and landscaping to ensure architectural consistency throughout the townhouse units, and provisions that waive the Municipality of any and all responsibility respecting services, road maintenance, garbage collection and snow removal.

3.4.5 The Developer agrees that, for the purposes of calculating density or the number of residential dwelling units on the Lands, each individual townhouse unit owned and managed by a single entity such as a Condominium Corporation or equivalent, shall be counted as one (1) dwelling unit. For example, a group of eight (8) townhouse units located on a single property shall be counted as eight (8) dwelling units.

3.4.6 Front yard setbacks shall generally conform to those illustrated on Schedule B, in the opinion of the Development Officer.

3.5 Siting and Architectural Requirements

- 3.5.1 The Developer agrees that the buildings constructed on the Lands shall comply with the concept plan attached to this Agreement as Schedule B and the building elevations attached to this Agreement as Schedule D, in the opinion of the Development Officer.
- 3.5.2 Exterior building materials shall include stone, brick or an acceptable equivalent in the opinion of the Development Officer, as illustrated on Schedule D.
- 3.5.3 All building facades of the townhouse blocks shall contain recesses and/or projections, as illustrated on the Schedules, to avoid the appearance of long flat walls.
- 3.5.4 Any exposed foundation wall in excess of one (1) metre shall be architecturally detailed, veneered with stone, brick or stucco, painted or treated in an another manner deemed acceptable to the Development Officer.
- 3.5.5 Trim shall be provided around all windows.
- 3.5.6 Height shall be determined for each individual dwelling unit rather than for each townhouse block.
- 3.5.7 The Development Officer may approve modifications to the architectural requirements of this section and the building elevations attached as Schedule D, provided the changes are consistent with the intent of this Agreement and minor in nature, in the opinion of the Development Officer.

3.6 Parking, Circulation and Access

- 3.6.1 The layout of the shared driveways and the number and layout of individual driveways and parking spaces on the Lands shall be as generally illustrated on Schedule B.
- 3.6.2 All parking areas, individual driveways, and shared accesses and driveways shall have a finished hard surface such as asphalt, concrete, paving blocks or an acceptable equivalent in the opinion of the Development Officer.
- 3.6.3 The Development Officer may approve changes to the parking and circulation layout illustrated on Schedules B and C provided that such changes are minor in nature and consistent with the intent of this Agreement, in the opinion of the Development Officer.

3.7 Building and Site Lighting

- 3.7.1 The Developer agrees that lighting shall be directed to driveways, parking areas, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

3.7.2 Prior to the issuance of a Construction Permit, the Developer shall prepare a Lighting Plan and submit it to the Development Officer. The Lighting Plan shall contain, but shall not be limited to, the following:

- (a) Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, other devices; and
- (b) The Lighting Plan and description shall contain sufficient detail to enable the Development Officer to ensure compliance with the requirements of Section 3.7. If such plan and description cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.

3.8 Landscaping

- 3.8.1 Prior to the issuance of a Construction Permit, the Developer agrees to submit a Landscaping Plan which complies with the provisions of this section and generally conforms with the overall intentions of the preliminary landscape details shown on Schedule C. The Landscaping 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.
- 3.8.2 All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.
- 3.8.3 The Developer agrees that landscaping or appropriate vegetative cover shall be provided in all disturbed areas not occupied by buildings, walkways, driveways and parking areas except for areas where natural vegetative cover is maintained.
- 3.8.4 Further to Subsection 3.8.3, landscaped areas shall be grassed or include landscape features such as mulch, stone, water features, perennials, annuals, shrubs or other vegetation and features deemed acceptable by the Development Officer.
- 3.8.5 A row of trees shall be planted inside the proposed fence on the Lands adjacent to all abutting residential properties on Highland Crescent and Hugh Allen Drive as generally illustrated on Schedule C, which, when mature, will act as an additional visual screen above the fence, in the opinion of the Landscape Architect that prepares the Landscape Plan. Any new trees shall have a minimum caliper of 60 mm measured at a height of 300 mm above the ground.

Existing trees on the Lands may be retained in lieu of new trees provided that they are clearly illustrated on the Landscaping Plan and the Landscape Architect that prepares the Plan is of the opinion that the trees to be retained would survive and thrive following

development and removal of some of the surrounding vegetation.

3.8.6 Landscape Details

Planting details for each type of plant material proposed on the Landscaping Plan shall be provided, including species list with quantities, size of material, and common and botanical names (species and variety).

- 3.8.7** Any tree shown on the Landscaping Plan required pursuant to Section 3.8 of this Agreement removed without authorization of the Development Officer shall be replaced with two new trees of a similar species and a minimum caliper of 60 mm measured at a height of 300 mm above the ground, at the expense of the property owner.

3.8.8 Compliance with Landscaping Plan

Prior to issuance of the first 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 Agreement.

- 3.8.9** Notwithstanding Subsection 3.8.8 the Occupancy Permit may be issued provided the Developer supplies a security deposit in the amount of 110 per cent of the estimated cost to complete the landscaping. 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 this 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.

- 3.8.10** The Development Officer may authorize changes to the Landscaping Plan required pursuant to this Agreement if such changes are proposed by a professional Landscape Architect.

3.9 Fencing

The Developer agrees to provide a solid board wood fence, a minimum of six (6) feet in height, on the southern boundary of the Lands as illustrated on Schedule C. Provided that the fence is six (6) feet in height, it may also consist of five (5) feet of solid board fence and one (1) foot of lattice or be comprised of another material which would render the fence opaque in the opinion of the Development Officer.

3.10 Maintenance

The Developer, while owner of the Lands, and all future property owner(s) shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the interior and exterior of the buildings, 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 removal/salting of walkways and driveways. Maintenance of the development shall be the responsibility of the property owner and the Developer shall ensure that future property owners are aware of their obligations to maintain and keep in good repair all portions of the development.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

All design and construction shall conform with the HRM Municipal Service Systems Design Guidelines unless otherwise provided for in this Agreement and approved in writing by the Development Engineer prior to undertaking the work. The Development Officer, in consultation with the Development Engineer, may give consideration to minor changes to the shared accesses and driveways, provided the modifications serve to maintain or enhance the intent of this Agreement.

- 4.2 No Construction Permit shall be issued for the development or any portion thereof, until construction of all primary services (defined as sanitary sewer, storm sewer, water system and hydrants, sewer and water service laterals to the street line, surface drainage, curb and gutter with base, roadway with sub-base and first lift asphalt, street signs, underground electrical services) have been completed to the satisfaction of the Development Engineer.
- 4.3 Notwithstanding Section 4.2, the Development Officer may, in consultation with the Development Engineer, issue a Construction Permit if security has been provided to the Municipality to cover the cost of any incomplete primary and secondary services as specified by the Development Engineer. Such security shall be in the amount of 110 per cent of the estimated cost of completion of all outstanding work. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable, automatically renewable letter of credit in the Municipality's name issued by a chartered bank. The security shall be returned to the Developer only upon completion of all work, as described herein and illustrated on the Schedules, and as approved by the Municipality. Should the Developer not complete the work within a time period specified by the Development Engineer prior to the security being issued in favour of the Municipality, the Municipality may use the deposit to complete the work as set out in the above subsections. The Developer shall be responsible for all cost 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.

4.4 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.

4.5 Underground Services

All secondary electrical, telephone and cable service to all dwelling units shall be underground installation.

4.6 Site Preparation

The Developer shall not commence clearing, excavation and blasting activities required for the installation of municipal services and road construction in association with the proposed development prior to receiving final approval of the design unless otherwise permitted by the Development Officer, in consultation with the Development Engineer.

4.7 Streets

The extension to Evergreen Drive and private driveway shall be developed as generally shown on Schedule B. All street and driveway construction shall conform with the Municipal Service Systems Design Guidelines specifications and any other applicable Municipal standards unless otherwise provided for in this Agreement and shall be approved in writing by the Development Engineer prior to undertaking the work. The Development Officer, in consultation with the Development Engineer, may give consideration to minor changes to the street extension and driveway, provided the modifications serve to maintain or enhance the intent of this Agreement, in the opinion of the Municipality.

4.8 Municipal Water Distribution System

The water distribution system shall conform with all design and construction requirements of Halifax Water unless otherwise deemed acceptable to and approved by Halifax Water.

4.9 Sanitary Sewer

The sanitary sewer system shall conform with all design and construction standards of the Municipal Service Systems Design Guidelines, unless otherwise deemed acceptable

to and approved in writing by the Development Engineer.

PART 5 ENVIRONMENTAL PROTECTION MEASURES

5.1 Stormwater Management Plan

The Developer shall engage a qualified Professional Engineer to prepare a Stormwater Management Plan which identifies structural and vegetative stormwater management measures such as, infiltration, retention, and detentions controls, wetlands, vegetative swales, filter strips, and buffers to minimize any significant adverse impacts on receiving watercourse during and after construction. The plans shall indicate the sequence of construction, the areas to be disturbed, all proposed erosion and sedimentation control measures and stormwater management measures, including a monitoring/sampling program, which are to be in place prior to and during development of that phase.

5.2 Erosion and Sedimentation Control Plan

The Developer agrees to have prepared by a Professional Engineer and submitted to the Municipality for review by the Development Engineer and the Department of the Environment (if applicable) a detailed Erosion and Sedimentation Control Plan for each phase of the development. The plans shall comply with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by the Nova Scotia Department of the Environment. Notwithstanding other Sections of this Agreement, no work is permitted on the site until the requirements of this Section have been met and implemented.

5.3 Master/Site Grading Plan

The Developer agrees to have prepared by a qualified Professional Engineer and submitted to the Municipality for review and approval by the Development Engineer, a detailed Master Site/Grading Plan for each phase of the development. No work is permitted on the Lands until the requirements of this clause have been met and implemented unless otherwise stated in this Agreement and approved by the Development Engineer.

5.4 Stormwater Management System

The Developer agrees to construct at its own expense the Stormwater Management System associated with the proposed development. The Developer shall provide certification from a Professional Engineer that the system, or any phase thereof, has been constructed in accordance with the approved design.

5.5 Failure to Conform to Plans

If the Developer fails at any time during any site work or construction to fully conform to the requirements set out under Part 5 of this Agreement, the Municipality shall require that all site and construction works cease, except for works which may be approved by the Development Engineer to ensure compliance with the environmental protection plans.

5.6 Erosion Control

No Occupancy Permit shall be issued unless the entire lot is either fully stabilized with sod or is temporarily stabilized and maintained with a covering of plastic or other such measures approved by the Development Engineer. Any temporary stabilization of the lot shall be replaced with final landscaping (top soil and sod) within six (6) months of the issuance of the Occupancy Permit. The owner of the lot shall be responsible for ensuring that any temporary stabilization materials are replaced and/or maintained on an as-required basis to ensure that exposed soil is adequately stabilized at all times.

PART 6 AMENDMENTS

6.1 Substantive Amendments

Amendments to any matters not identified under Section 6.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act.

6.2 Non-Substantive Amendments

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

(a) The granting of an extension to the date of commencement of development as identified in Section 8.3 of this Agreement;

(b) The granting of an extension to the length of time for the completion of the development as identified in Section 8.3.3 or 8.4 of this Agreement; and

(c) Approval of a maximum of 8 additional dwelling units, as generally illustrated on Schedule B, as set out in Subsection 3.2.5 of this Agreement.

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Deleted.

PART 7: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

7.1 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 one (1) day of receiving such a request.

7.2 Failure to Comply

If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer ten (10) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, 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 development 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; and
- (d) In addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

PART 8: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

8.1 Registration

A copy of this Agreement and every amendment and/or discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall incur all cost in recording such documents.

8.2 Subsequent Owners

8.2.1 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which is the subject of this Agreement until this Agreement is discharged by Council.

8.2.2 Upon the transfer of title to any lot, the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.

8.3 Commencement of Development

8.3.1 In the event that development has not commenced ~~within five (5) years from the date of registration of this Agreement at the Registry of Deeds~~, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement, whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction.

8.3.2 For the purposes of this section, development shall mean completion of the footings for the proposed building.

8.3.3 If the Developer(s) fails to complete the development, or after 20 years from the date of registration of this Agreement at the Registry of Deeds, whichever time period is less, 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.

8.4 Completion of Development

Upon the completion of the development or portions thereof, or within/after 20 years from the date of registration of this Agreement with the Registry of Deeds, whichever time period is less, 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 on the condition that for those portions of the

2nd ADA.

↓
one year from
the date of
Registration of
the 2nd ADA.

↓
Aug 11, 2017

↓
[Aug 11, 2018]

development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Cole Harbour/Westphal, as amended from time to time.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this 30th day of March, A.D., 2009.

SIGNED, SEALED AND DELIVERED
Originally Signed

B.A.E. DEVELOPMENTS LTD.
Originally Signed

Per: _____

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

HALIFAX REGIONAL MUNICIPALITY
Originally Signed

Per: _____

Per: Originally Signed

ACTING MUNICIPAL CLERK

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX, NOVA SCOTIA

ON THIS 6 day of March, A.D., 2009, before me, the subscriber personally came and appeared MARTIN TORE a subscribing witness to the within and foregoing Indenture, who, having been by me duly sworn, made oath and said that B.A.E. DEVELOPMENTS LTD., one of the parties thereto, signed, sealed and delivered the same in his presence.

Originally Signed

Court of Nova Scotia
STEPHEN D. PIGGOTT
A Barrister of the Supreme
Court of Nova Scotia

Supreme

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX, NOVA SCOTIA

ON THIS 20th day of March, A.D., 2009, before me, the subscriber personally came and appeared before me Deborah Chambers, April Guy the subscribing witness to the within and the foregoing Indenture, who, having been by me duly sworn, made oath and said that the Halifax Regional Municipality, one of the parties thereto, caused the same to be executed and its Corporate Seal to be thereunto affixed by the hands of Peter Kelly, its Mayor, and Julia Horncastle, its Acting Municipal Clerk, its duly authorized officers in his presence.

Originally Signed

A Commissioner of the Supreme
Court of Nova Scotia

Shellagh Edmonds
A Commissioner of the
Supreme Court of Nova Scotia

Schedule A

PID 40414633

ALL that certain lot, piece or parcel of land situate, lying and being at Cole Harbour, in the County of Halifax, Province of Nova Scotia, and consisting of Lots shown as Lot C15, C16 and C17 and a portion of a proposed road as shown on a plan of the subdivision of the lands of Robert K. and Hilda E. Turner at Cole Harbour, prepared by K.W. Robb, P.L.S., on the 16th day of October, 1962, the said plan being filed in the Registry of Deeds at Halifax as Plan No. 6277 in Drawer No. 94, the said lot of land being more particularly described as follows:

BEGINNING at a point shown as the southeastern corner of Lot C14 as shown on the said plan, the said point being on the line marking the northern side of part of the lands of one Bryden Bissett, the said point being 29.34 feet when measured easterly along the southern side line of Lot C14 from the northeastern corner of Lot C8;

THENCE running along the southern sideline of Lots C15, C16 and C17 and along the northern sideline of part of the lands of Bryden Bissett a distance of 213.73 feet more or less to a point marking an angle on the lands of Bryden Bissett, the said point being the southeastern corner of Lot C17;

THENCE running in a general northerly direction along the western sideline of the lands of Bryden Bissett a distance of 101.27 feet more or less to a point marking the southern sideline of the proposed road;

THENCE continuing in a northerly direction along the western sideline of the lands of Bryden Bissett a further distance of 66.01 feet more or less to the northern sideline of the proposed road as shown on said plan;

THENCE running westerly along the northern sideline of the proposed road a distance of 212 feet more or less or to a point marking the prolongation northerly of the division line between Lots C14 and C15;

THENCE running in a southerly direction along the prolongation of and the division line between Lots C14 and C15 a distance of 183.07 feet more or less to the place of beginning.

The said Lot being and intended to be added to the lands conveyed by Robert K. Turner and Hilda E. Turner to S. Jachimowicz Limited, which lands lie to the north of the said proposed road.

TOGETHER with a right of way over the aforementioned proposed road as shown on the said plan.

The parcel originates with an approved plan of subdivision that has been filed under the Registry Act or registered under the Land Registration Act at the Land Registration Office for the registration district of Halifax as plan 6277.

Schedule A

PID 00398552

All that certain lot, piece or parcel of land situate lying and being at Cole Harbour in the County of Halifax Province of Nova Scotia and being described as follows:

BEGINNING at the Southeasterly point of Lot C-10;

THENCE in an easterly direction 300.69 feet more or less to a point;

THENCE in a northerly direction 183.07 feet more or less to a point;

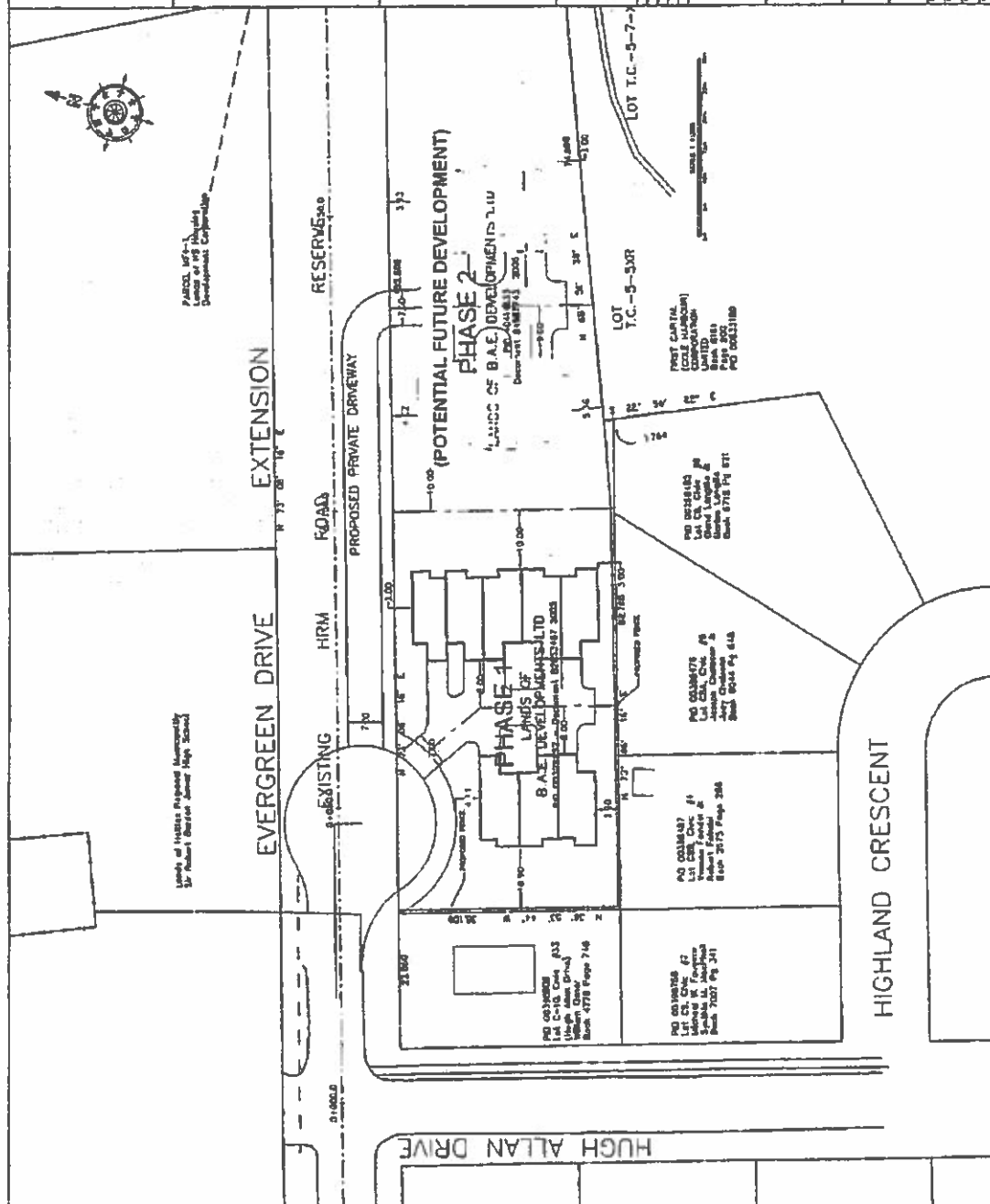
THENCE in a westerly direction until it reaches the lands of Charles Settle;

THENCE in a southerly direction 66 feet more or less to a point;

THENCE in an easterly direction 287 feet more or less to a point;

THENCE in a southerly direction 125 feet more or less to the place of beginning.

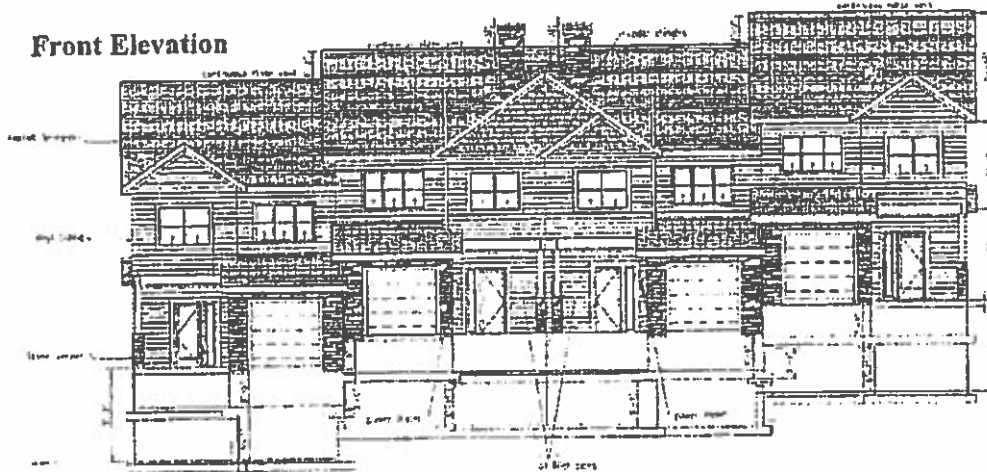
The description for this parcel originates with a deed dated September 9, 1926 registered in the registration district of Halifax in book 610 at page 105 and the subdivision is validated by Section 291 of the Municipal Government Act.

[illegible]

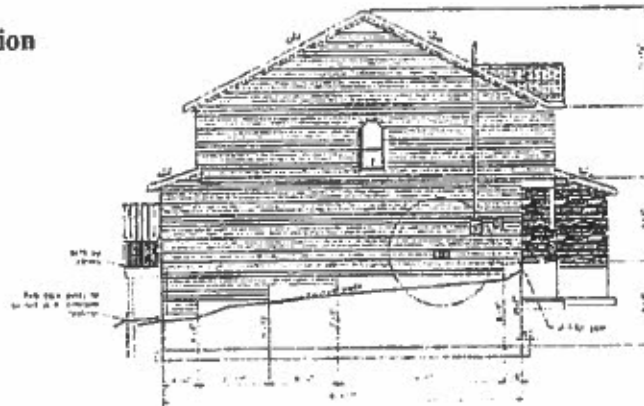
<div style="display: flex; justify-content: space-between;"> <div> <p>DATE: 11/11/2011</p> <p>TIME: 10:00 AM</p> <p>BY: [Signature]</p> </div> <div> <p>PROJECT: [Blank]</p> <p>LOCATION: [Blank]</p> <p>SCALE: [Blank]</p> </div> </div>	<p>Evergreen Drive</p> <p>Partway to</p>	<p>PRELIMINARY CONCEPT PLAN</p>
<p>Sommit Rock Developments Ltd.</p> <p>10000 Highway 100</p> <p>Unit 100, Richmond, BC V6X 1A7</p> <p>TEL: 604-273-1111</p> <p>FAX: 604-273-1112</p>	<p>East Point</p> <p>10000 Highway 100</p> <p>Unit 100, Richmond, BC V6X 1A7</p> <p>TEL: 604-273-1111</p> <p>FAX: 604-273-1112</p>	<p>DATE: 11/11/2011</p> <p>TIME: 10:00 AM</p> <p>BY: [Signature]</p> <p>PROJECT: [Blank]</p> <p>LOCATION: [Blank]</p> <p>SCALE: [Blank]</p>

Schedule "D" Building Elevations

Front Elevation



Side Elevation



Rear Elevation

