



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

**Item No. 8.1.1**  
**North West Community Council**  
**April 20, 2015**  
**May 25, 2015**

**TO:** Chair and Members of North West Community Council

**SUBMITTED BY:** Original Signed  
\_\_\_\_\_  
Bob Bjerke, Chief Planner & Director of Planning and Development

**DATE:** February 6, 2015

**SUBJECT:** **Case 17651: Development Agreement to enable a multiple unit dwelling at 3009 Highway 2, Fall River**

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**ORIGIN**

Application by RIN Hospitality Investments Limited.

**LEGISLATIVE AUTHORITY**

*Halifax Regional Municipal Charter, Part VIII, Planning and Development*

**RECOMMENDATION**

It is recommended that North West Community Council:

1. Give Notice of Motion to consider the proposed development agreement, as contained in Attachment A of this report, to permit the development of a multiple unit dwelling at 3009 Highway 2 and to schedule a public hearing;
2. Approve the proposed development agreement as contained in Attachment A of this report to permit the development of a multiple unit dwelling at 3009 Highway 2;
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**

An application by RIN Hospitality Investments Limited has been submitted to enter into a new development agreement at 3009 Highway 2, Fall River. The subject lands are home to an existing hotel known as the Inn on the Lake, which includes a restaurant, pub and meeting facilities. The Inn is a 39 room boutique hotel which was established in 1972 and was acquired by the current owners in 1986. Extensive upgrades to the site have taken place since 1986. The application proposes the addition of a multiple unit dwelling on the site with the option of keeping the hotel or converting the hotel space to a multiple unit dwelling. The proposal would also enable the retention of the restaurant and pub.

### **Location, Designation, Zoning and Surrounding Land Use:**

Subject Property	3009 Highway 2 (PID 00526871 and 40500449) (Map 1)
Location	Fall River, adjacent Highway 2 and Highway 102 intersection (Exit 5)
Lot Area	4.0 acres (1.61 ha)
Regional Designation	Rural Commuter
Community Designation	River Lakes Village Centre Designation under the Planning District 14 and 17 Municipal Planning Strategy (MPS) and River-lakes Secondary Planning Strategy (SPS) (Map 1)
Zoning	Village Gateway (VG) Zone under the Planning Districts 14 and 17 Land Use By-law (LUB) (Map 2)
Surrounding Uses	To the north is vacant land, commercial property on the opposite side of Highway 2 (east) and commercially zoned properties to the south. Lake Thomas is located to the west.
Current Use	39 unit hotel, restaurant and pub and associated facilities

### **Existing Site**

The entirety of the site is disturbed with an existing hotel building, groomed landscaping, hard surface and gravel parking areas and a tennis court. The extent of the development on the site was in keeping with the LUB at the time it was constructed. As a result there are existing structures adjacent watercourses which do not conform with current regulations and thus are considered non-conforming.

### **Enabling Policy**

Within the River Lakes SPS, Policy RL-6 creates the base zone applied to the property (Village Gateway Zone). The intent of this zone is to create an attractive form of development with a visually pleasing entry way into the community by permitting medium-scale commercial, residential, institutional and open space uses with limitations on gross floor space, building footprint, and maximum height.

Notwithstanding the base zone, policy RL-10 (Attachment D) enables the consideration of other land uses through existing policies located in the Planning Districts 14 and 17 MPS. Policies P-68 and P-154 (Attachment C) enable Council to consider a development agreement for a multiple unit dwelling on any site with an existing oversized septic system. The policies allow consideration of residential multiple unit development where existing oversized septic treatment is available provided the design and scale of the building is compatible with nearby land uses, landscaping is provided, access and parking are acceptable, sewage and water matters are satisfactory and consideration of general planning matters. The Inn on the Lake currently uses an oversized sewer treatment plant for the existing hotel and thus is eligible for consideration of a development agreement for a multiple unit dwelling under these policies. Policy P-68 does not prescribe the specific parameters for such development therefore providing some latitude in prescribing the requirements in the development agreement for the proposed land use.

### **Proposal**

RIN Hospitality Investments Limited has applied to enter into a new development agreement (Attachment A) to add residential dwelling units to the existing hotel. Several iterations of the proposal have been considered through the planning process but the current proposal under consideration is a six storey addition to the existing Inn on the Lake building intended to house 75 units. In addition, the applicant

would like have the flexibility to either keep the existing hotel or convert it to an additional 16 dwelling units. Both proposals would enable the continuance of both the restaurant and pub and limited outdoor patio space. Details of each proposal are identified below in Table 1. A site plan of the proposal is attached as Map 3.

Table 1	Existing	Option A (maximum)	Option B (maximum)
Hotel	39 units	41 units	0 units
Restaurant	1,309 sq. ft. 70 seats	1,309 sq. ft. 70 seats	1,309 sq. ft. 70 seats
Restaurant (Outdoor Patio)	8,073 sq. ft. 100 seats	600 sq. ft. 30 seats	600 sq. ft. 30 seats
Lounge	713 sq. ft. 38 seats	713 sq. ft. 38 seats	713 sq. ft. 38 seats
Meeting Rooms (4)	377, 464, 945, & 450 sq. ft.	0	0
Commercial Space	0	1,395 sq. ft.	1,395 sq. ft.
Multiple Unit Residential Dwelling Units	0	75	91
Stand Alone Residential Unit (Garage)	0	1	1

## **DISCUSSION**

Existing MPS policies envision the creation of multiple unit dwellings by development agreement on select sites within the plan area where existing septic or treatment plants can support such a land use. The Inn on the Lake site qualifies for consideration under this policy. The policy envisions the renewal of existing sites through the creation of new multiple unit dwellings which are compatible with the surrounding community.

The proposal has been reviewed relative to the applicable policies of the Regional MPS, Planning Districts 14 and 17 MPS and the River-lakes SPS. Existing policies in the MPS are primarily concerned with the compatibility of any proposal with surrounding land uses. A complete review of policy criteria is set out in Attachments B, C and D. Based on this analysis, the following matters have been identified for detailed discussion.

### **Building Scale and Mass**

The scale and mass of the proposed building is beyond what is currently permitted by the LUB and is not directly comparable to existing buildings in the immediate community. The developer has created a design that accommodates the uniqueness of the site, development economics, and the requirements of MPS policies. Staff contends that the proposal does not significantly impact surrounding property owners and can be established with the use of appropriate land uses controls within the proposed development agreement to manage any impacts on the surrounding community. With such controls the proposal is considered compatible with surrounding uses.

The proposed multiple unit dwelling is a six storey addition to the existing Inn on the Lake building (three storeys). The addition sits adjacent Lake Thomas and is set back considerably from Highway 2 but has a closer relationship with the ramps for Highway 102 at Highway 2. Six storeys face Lake Thomas and 4 and 5 storeys face Highway 2. The building would be the largest residential building in the Fall River area. The proposed addition of a multiple unit dwelling will significantly increase the presence of the Inn on the Lake building as the horizontal scale of the building is three times greater than the existing building and the vertical scale increases by 3 to 4 storeys.

### Architecture

The architecture of the existing building (modern baroque) has made the Inn on the Lake a significant landmark within the Fall River area. Care was taken in the design to ensure the new addition relates to the existing building and the proposed architectural treatments continue the existing themes including the use of a mansard roof. Further, the mansard roof style (existing and proposed) provides a visually pleasing way to minimize the visual appearance of height of the addition. The proposed addition complements the existing building and site design.

For reference, attached (Attachment E) are views of the proposal as prepared by the applicant which illustrate the proposed mass of the building from various viewpoints.

### Compatibility and Visual Impact on the Community

The proposal is located adjacent to commercially zoned lands and there are no abutting residential properties. The proposal is visible from residential zoned properties approximately 300m (984 feet) away. The scale of the building is larger than other properties in the area but the significant setbacks from Highway 2 and the integration of the building in to the sloping site minimize the impact of the proposal on nearby properties. The architectural design is consistent with the current french mansard design of the existing Inn on the Lake. The proposed design uses architectural features to break up the scale of the building and the mansard roof design minimizes the impact of the top storey. The proposal does not overshadow any existing buildings nor appears to impact the enjoyment of residential properties. The required riparian buffer will protect vegetation on the watercourse bounded sides of the site and soften or limit the visual impact of the building form on surrounding properties. While two to three floors of the building will be visible from other properties, the proposal is compatible with nearby land uses.

The proposed architectural design and scale of the proposal meets the requirement of MPS policy even though the building is larger than would be permitted in the area under the LUB. The building mass as proposed in the draft agreement does not create any specific land use compatibility concerns. There is adequate transition from the proposed and existing building to adjacent residential uses. Also, the impact of the proposal is minimized by distance, adjacent commercial land uses and existing vegetation.

### Need for Alternate Housing

There is an shortage of alternate housing in the Fall River and surrounding area. Long standing policies in the MPS limited development in the area to single unit dwellings only with the exception of select sites, including the subject property. During the preparation of the River-lakes SPS and the Fall River Vision Process, significant discussion on the need for different forms of housing was had. As a result, the River - lakes SPS identified several sites as opportunity sites for alternate housing forms such as townhouses or multiple unit dwellings. During that process, the policies which enabled multiple unit development on this site were recognized and acknowledged. One of the goals of the SPS is to enable development of a variety of housing types that provide for a wide range of demographic needs and people with varying incomes. Further the Regional MPS identifies providing housing opportunities for a range of social and economic needs and promote aging in place as a goal for the design of communities.

The proposed development provides one of the few opportunity sites in Planning Districts 14 and 17 where housing suitable for seniors and persons with mobility challenges can be established.

### Other Matters

A review and discussion of other matters of policy concern including traffic, access, provision of sewer treatment and water is found in Attachment B, C and D.

### **Development Agreement**

The proposed development agreement includes measures to deal with the following matters which are unique to the subject proposal:

Riparian/Watercourse Buffers - The proposed development agreement limits the location of the building, driveway, parking access and pool to areas outside the buffer. The location of the driveway access to the

underground parking garage( may result in a very minor intrusion (20 feet by 20 feet) in an existing cleared and landscaped area which is technically part of the riparian buffer next to Highway 2. This small intrusion enables significant improvements in the layout of the site which furthers the intent of policy therefore staff is satisfied the proposed riparian buffer reasonably meets the policies of the MPS.

Pervious Surface/Non- Disturbance Area - In order to reach a 50 percent pervious surface target as identified in the MPS, the agreement requires that any shortfall in pervious area (approximately 4 percent) be made up with pervious paving.

Traffic, Access and Left Hand Turn Lane – A traffic study was completed for the development and it determined the impacts of the development on the general area including the Fall River Road and Highway 2 Intersection, the Highway 102 / Highway 118 interchanges and the Lockview Road and MacPherson Road intersections. The analysis was required to take into consideration the findings of the Fall River / Waverley / Wellington Transportation Study (2010) The traffic study was found to meet HRM and Provincial guidelines and requirements.

The study suggests the construction of a left hand turning lane on the northbound approach to the site is required to maintain functionality on Highway 2. The developer is required to construct and pay for this under the development agreement. Further the relocation of the main driveway (to the south) was required to maintain the functionality on Highway 2, and to meet standards required for fire truck access, as a result an existing second driveway on Highway 2 is required to be closed.

Parking - The provision of parking for this development has been challenging due to the scale of the development, mix of land uses and required watercourse and other setbacks. The Land Use By-law requires a minimum of 201 parking. The parking standards in the Land Use By-law are conservative and may lead to an oversupply of parking. The applicant has asked for reduced parking standards to account for on-site synergies and the challenges identified above. The proposal is for 187 parking spaces, however, that number could be reduced by approximately 22 spaces for a total of 165 spaces should the province revoke their authorization to park within 10m of the Highway 102 ramps at Highway 2. Staff are satisfied that 165 parking spaces is adequate parking for the proposed development.

Architecture and Building Scale - The architecture and building scale are detailed and limited by the development agreement and furthers the existing design rationale used for the existing Inn on the Lake. The proposed architectural design and scale of the proposal are compatible with nearby land uses.

### **Conclusion**

While the proposed multiple unit dwelling results in a significant change to land uses and building form on the Inn of the Lake site, an analysis of the proposed development indicates that there is not anticipated to be significant impacts on the surrounding properties, the road network and other matters of planning concern. While the proposal will increase the visual presence of the buildings on this site and increase the contrast between the surrounding communities, the proposed use is compatible in the proposed form with surrounding uses.

Staff advise that the proposed multiple unit dwelling and associated development is consistent with applicable policies of the Planning Districts 14 and 17 MPS, the River Lakes SPS and the Regional MPS. It is recommended that North West Community Council approve the proposed development agreement as contained in Attachment A of this report.

### **FINANCIAL IMPLICATIONS**

The Developer 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 budget with existing resources.

## **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 a Public Information Meeting held on May 16, 2012 (See Attachment E for Minutes). Notice of the Public Information Meeting was posted on the HRM Website, in the newspaper, and mailed to property owners within the notification area as shown on Map 2.

A public hearing must be held by Community Council before they can consider approval of the Development Agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposed development agreement will potentially impact local residents, property owners and adjacent businesses.

## **ENVIRONMENTAL IMPLICATIONS**

The proposal meets all relevant environmental policies contained in the MPS. No additional concerns have been identified beyond those raised in this report.

## **ALTERNATIVES**

1. Community Council may choose to refuse the proposed Development Agreement as set out in Attachment A of this report and, in doing so, must provide reasons why the development agreement does not reasonably carry out the intent of the MPS. A decision of Council to reject the Development Agreement, with or without a public hearing, is appealable to the N.S Utility & Review Board as per Section 262 of the *HRM Charter*. This is not recommended.
2. Community Council may choose to approve the proposed development agreement subject to modifications. This may necessitate further negotiation with the Developer, a supplementary staff report and may require an additional Public Hearing.

## **ATTACHMENTS**

Map 1	Generalized Future Land Use
Map 2:	Zoning and Notification
Map 3:	Site Plan
Attachment A:	Proposed Development Agreement
Attachment B:	Regional MPS Policy Evaluation – Regional MPS (2014)
Attachment C	Planning District 14 and 17 MPS Policy Evaluation
Attachment D	River-lakes SPS Policy Evaluation
Attachment E:	Minutes of the Public Information Meeting - May 16, 2012
Attachment F:	Conceptual Building Model

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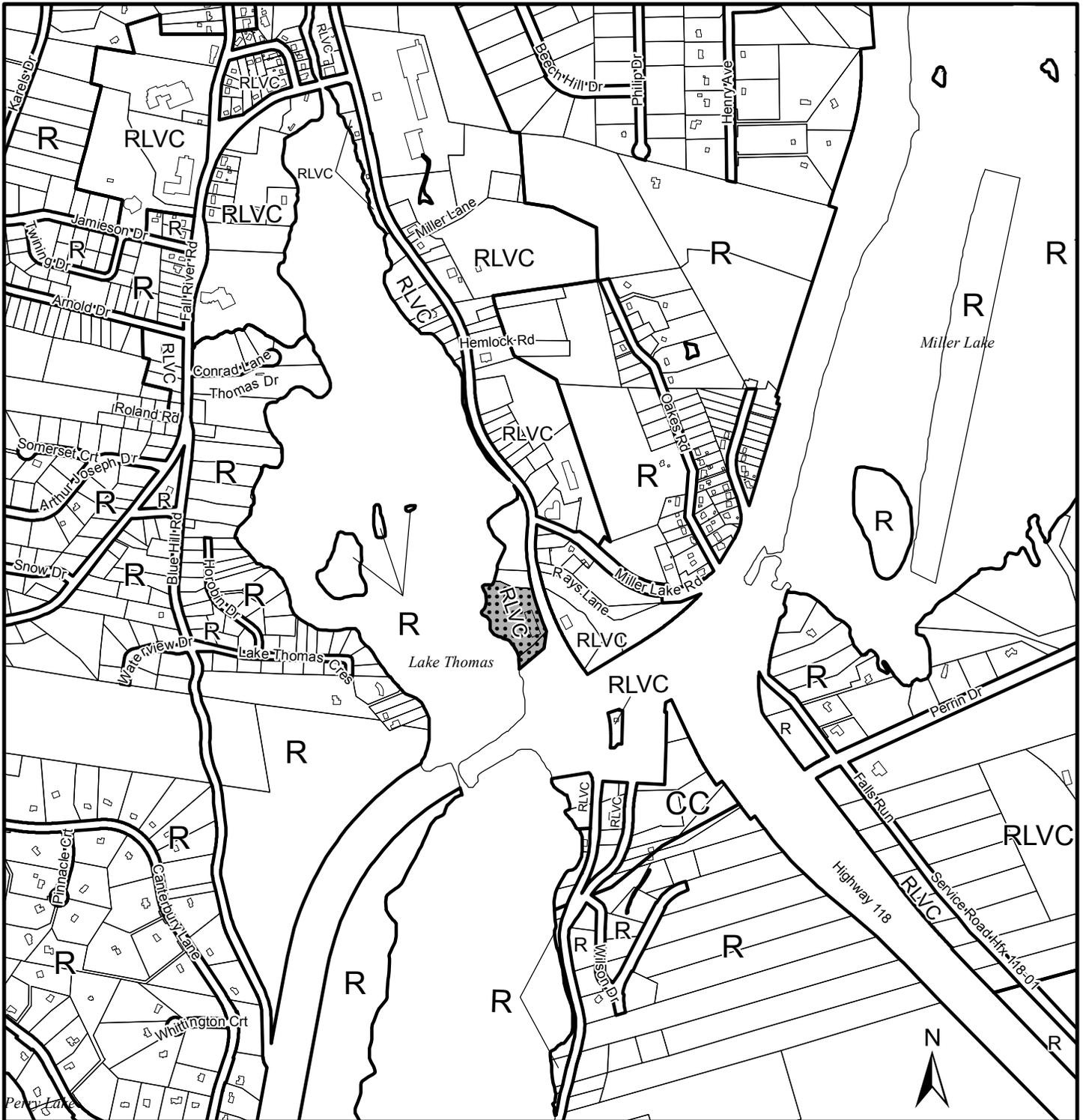
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Andrew Bone, Senior Planner, 902-490-6743

Original Signed

Report Approved by: \_\_\_\_\_  
Kurt Pyle, Acting Manager- Development Approvals, 902-490-6011

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**Map 1 - Generalized Future Land Use**

3009 Highway 2  
Fall River

**HALIFAX**

 Subject Area

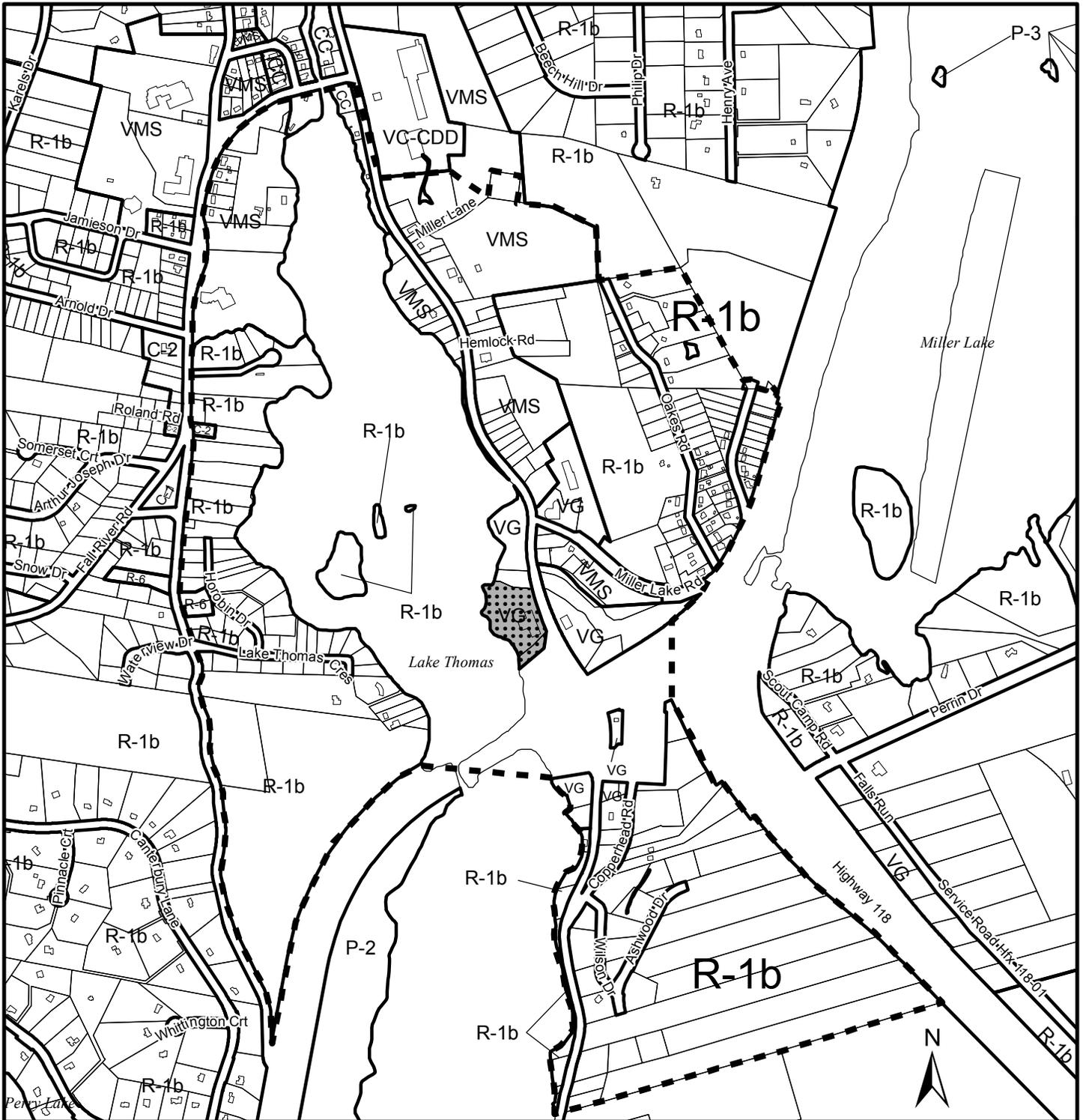
**Designation**  
 R Residential  
 CC Community Centre  
 RLVC River-Lakes Village Centre



Planning Districts 14 & 17  
(Shubenacadie Lakes) Plan Area

This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.



## Map 2 - Zoning and Notification

3009 Highway 2  
Fall River

# HALIFAX

-  Subject Area
-  Area of notification

### Zone

- |      |                      |        |   |
|------|----------------------|--------|---|
| R-1a | Single Unit Dwelling | VG     | Village Gateway                                 |
| R-1b | Suburban Residential | VMS    | Village Main Street                             |
| R-6  | Rural Residential    | CC     | Canal Court                                     |
| C-1  | Local Business       | P-2    | Community Facility                              |
| C-2  | Community Commercial | P-3    | Park  |
|      |                      | VC-CDD | Village Core Comprehensive Development District |



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Planning Districts 14 & 17  
(Shubenacadie Lakes) By-Law Area

# Map 3 Site Plan

**LEGEND**

- Site Boundary
- - - Adjacent Property Boundary
- Watercourse
- 20 Metre Buffer
- Pedestrian Flow
- Outdoor Fitness Stations
- Existing Trees

**SITE SUMMARY:**

- Land Area (Total) - 4.0 Acres (16, 149 m<sup>2</sup>)
- Reduced access way lanes width as per National Building Code Section 3.2.5.6.1 (A) Access Route Design

**Underground Parking Area**

**VEHICLE PROFILE:**

HRM-Platform metres

- Width : 2.54
- Track : 2.30
- Lock to Lock Time : 4.00
- Steering Angle : 4.00

**PARKING PROVIDED:**

UNDEGROUND STANDARD	100
BARRIER FREE STANDARD	3
SURFACE STANDARD	82
BARRIER FREE SURFACE	3
<b>TOTAL</b>	<b>187</b>

**SOURCES:**

- Service Nova Scotia property mapping.
- NSPI Registered Easement
- Surveyor's Certificate by Allan M. Hunter (Hunter Surveying Ltd) dated March 31, 1988.
- GENIVAR Survey DA1137256(L)ENG conducted on August 16, 2012

Planner: Iain Grant

DESIGNER: Iain Grant

VERSION

**112**

**SITE PLAN**

November 28, 2013

DA11372-112

**SCALE**

1:1,750

0 4 8 12 m

**NORTH**



1 SPECTACLE LAKE DRIVE  
DARTMOUTH, NS  
CANADA, B5B 1X7  
PHONE: 902-855-9555 • FAX: 902-855-1865  
WWW.GENIVAR.COM

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

THIS AGREEMENT made this      day of **[Insert Month]**, 2015,

BETWEEN:

**[Insert Name of Corporation/Business LTD.]**

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

OF THE FIRST PART

- and -

**HALIFAX REGIONAL MUNICIPALITY**

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 3009 Highway 2, Fall River 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 addition of a multiple unit dwelling on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy(ies) P-68 and P-155 of the Planning Districts 14 and 17 Municipal Planning Strategy and Section 3.6(c) of the Planning Districts 14 and 17 Land Use By-law;

AND WHEREAS the North West Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 17651;

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

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## **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 Planning Districts 14 and 17 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 to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

### **1.4 Conflict**

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

1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

### **1.5 Costs, Expenses, Liabilities and Obligations**

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.

## **1.7 Acknowledgement**

The Developer agrees that additional information is required, such as, but not limited to, a receiving waters study, detailed Highway 2 turning lane design, and information related to water withdrawals, and it is to be provided at the time of permitting to the appropriate agencies. Further the Developer agrees that the results of such information may require a reduction in the number of dwelling units, and/ or a reduction in the mass of the building. All consequences and costs resulting from this information shall be the responsibility of the developer.

## **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:

## **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 17651:

#### ***List all applicable Schedules:***

Schedule A	Legal Description of the Lands
Schedule A-1	Map of the Lands
Schedule B	Site Plan (ver. 112)
Schedule C	Floor Plans (August 3 2012)
Schedule D	Building Elevations

### **3.2 Requirements Prior to Approval**

- 3.2.1 Prior to the issuance of any municipal Permits, the Developer shall:
- (a) Provide the Development Officer with a copy of all permits from Nova Scotia Environment relating to the discharge of effluent to Lake Thomas and the expansion or replacement of the existing sewage treatment plant.

- (b) Provide the Development Officer with a copy of all permits from Nova Scotia Environment relating to the withdrawal of water from Lake Thomas and the provision of potable water.
  - (c) Provide copies of the engineering design for the northbound left-hand turning lane on Highway 2 for the main entrance and approvals from Nova Scotia Transportation and Infrastructure Renewal for its construction. The design shall meet the requirements of Nova Scotia Transportation and Infrastructure Renewal and the Halifax Regional Municipality. The Developer shall be responsible for all costs associated with the design and construction of the left hand turning lane.
  - (d) Delineate riparian buffers areas and watercourse buffers as required by this agreement. These areas shall be identified with snow fence, prior to any site preparation (i.e. tree cutting, and excavation activity). The Developer shall provide confirmation to the Development Officer that watercourse buffers have been appropriately marked. Such demarcations shall be maintained by the Developer for the duration of the construction and may only be removed only upon the issuance of an Occupancy Permit unless otherwise directed by the Development Officer.
- 3.2.2 Prior to the issuance of a Development Permit, the Developer shall consolidate all lands subject to this agreement (PID#00526871 and 40500449) in to a single parcel.
- 3.2.3 Prior to the issuance of a Construction Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:
  - (a) Lighting Plan in accordance with Section 3.8 of this Agreement.
  - (b) Landscaping Plan in accordance with Section 3.9 of this Agreement.
  - (c) Stormwater Plan in accordance with Section 4.7.1 of this Agreement.
  - (d) Left hand turning lane detailed design in accordance with Section 4.8.1 of this agreement.
  - (e) Erosion and Sedimentation Control Plan in accordance with Section 5.1.2 of this Agreement.
- 3.2.4 Prior to the issuance of the first Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:
  - (a) Written confirmation from a qualified professional which the Development Officer may accept as sufficient record of compliance with the Landscape Plan;
  - (b) Written confirmation from a qualified professional which the Development Officer may accept as sufficient record of compliance with the Lighting Plan;
  - (c) Final approval from Nova Scotia Environment for the commissioning of the sewer treatment plant;
  - (d) Final approval from Nova Scotia Environment for the commissioning of water treatment plant; and
  - (e) Completion and take-over of required off-site infrastructure such as left hand turning lane on Highway 2.
  - (f) Written confirmation that the Developer has removed the existing parking located on NS Transportation and Infrastructure Renewal lands as required in Clause 3.7.8.
- 3.2.5 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy

Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

### 3.3 General Description of Land Use

3.3.1 The use(s) of the Lands permitted by this Agreement are the following:

- (a) existing hotel restaurant and pub and accessory facilities as permitted within the existing zone applied to the Lands subject to the provisions contained within the Land Use By-law for Planning Districts 14 and 17 as amended from time to time; or
- (b) Option A or B as identified below subject to the terms and conditions of this agreement:

	Existing	Option A (maximum)	Option B (maximum)
Hotel	39 units	41 units	0 units
Restaurant	1,309 sq. ft. 70 seats	1,309 sq. ft. 70 seats	1,309 sq. ft. 70 seats
Restaurant (Outdoor Patio)	8,073 sq. Ft. 100 seats	600 sq. ft. 30 seats	600 sq. ft. 30 seats
Lounge	713 sq. Ft. 38 seats	713 sq. Ft. 38 seats	713 sq. Ft. 38 seats
Meeting Rooms (4)	377, 464, 945, & 450 sq. Ft.	0	0
Commercial Uses	0	1,395 sq. ft.	1,395 sq. ft.
Multiple Unit Residential Dwelling Units	0	75	91
Stand Alone Residential Unit (Garage)	0	1	1

3.3.2 Commercial space shall mean retail stores, service and personal service uses, offices, health and wellness centres, medical and dental clinics, or craft shops as defined in the Planning Districts 14 and 17 Land Use By-law.

### 3.4 Phasing

3.4.1 The Development Officer may permit the establishment of any of the options identified in Section 3.3, however all uses established must comply with the specific option.

### 3.5 Siting and Architectural Requirements

#### *Siting*

3.5.1 The building's siting, bulk and scale shall comply with Schedule B and the following:



## Architectural Requirements

### *Entrances:*

3.6.1 The main entrances to building shall be emphasized by detailing, changes in materials, and other architectural devices such as but not limited to lintels, pediments, pilasters, columns, porticos, overhangs, cornerboards, fascia boards or an acceptable equivalent approved by the Development Officer. At least one main door shall face the Highway 2. Service entrances shall be integrated into the design of the building and shall not be a predominate feature.

### *Rear and side facades:*

3.6.2 Architectural treatments shall be continued around all sides of the building as identified on the Schedules.

### *Exposed Foundation*

3.6.3 Any exposed foundation in excess of 2 feet (0.6m) in height and 20 square feet (1.85 m<sup>2</sup>) in total area shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Development Officer.

### *Building Materials:*

3.6.4 Exterior building materials shall not include vinyl siding but may include any one or more of the following:

- wood shingles;
- clay masonry;
- non-combustible cladding;
- concrete split face masonry;
- cut stone masonry;
- random stone masonry;
- decorative trim elements (various materials); or
- acceptable equivalent in the opinion of the Development Officer.

### *Functional Elements:*

3.6.5. All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.

3.6.6 Buildings shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from Highway 2 and Highway 102.

### *Awnings:*

3.6.7 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are designed as an integral part of the building façade.

### *Commercial Storefronts*

3.6.8 Multiple storefronts shall be visually unified through the use of complementary architectural forms, similar materials and colours. Covered walkways, arcades, awnings, open colonnades and similar devices shall be permitted along facades to provide shelter, and encourage pedestrian movement.

*Mechanical and Rooftop Equipment:*

3.6.9 Buildings shall be designed such that the mechanical systems and rooftop equipment (HVAC, exhaust fans, telecommunications equipment, elevator equipment, etc. ) are not visible from public view. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent residential properties unless screened as an integral part of the building design and noise reduction measures are implemented.

*Powers of the Development Officer:*

3.6.10 The Development Officer may permit changes from the schedules in relation to siting and layout of buildings and parking, provided the change is minor and furthers the intent of the agreement. Minor shall be considered:

- (a) increase in the building footprint by 5 percent provided the requirements identified in Clause 3.5.1 are met;
- (b) decrease in the building footprint by 20 percent provided the requirements in Clause 3.5.1 are met;
- (c) variation in the siting of the building by 6 meters (20 feet) provided required setbacks are met;
- (d) variation to floor plans and the placement of land uses within the buildings provided all other intents of the agreement are met;
- (e) reconfigurations of the parking layout and underground parking access not including a reduction in parking spaces below that required by Section 2.8.2; and
- (f) enlargement of underground parking beyond that permitted in 3.6.10(a) and (c) which do not result in significant alteration to (a) the building; (b) the grades of the site; and (c) intrusion into the required setbacks.

3.6.11 The Development Officer may permit minor changes to the architectural details shown on Schedule D, provided the change is minor and furthers the intent of the agreement. Minor changes are:

- (a) the relocation of windows and other openings;
- (b) the substitution of equivalent materials;
- (c) alteration of architectural details which do not significantly impact the overall look of the building;

### **3.7 PARKING, CIRCULATION AND ACCESS**

3.7.1 The parking area shall be sited as shown on Schedule B. The parking area shall maintain setbacks from the property lines as shown on the plans.

3.7.2 The Developer shall provide a minimum of 165 parking spaces as identified on the plans. A minimum of fifty percent of these spaces shall be provided in underground parking. Each residential unit shall be assigned a minimum of one parking space per unit and there shall be one visitor parking space per every 10 units. The residential unit and visitor parking shall be clearly identified by signage. The remainder of parking spaces may be used for hotel, restaurant, lounge and retail land uses or for residential overflow parking. Reduced size parking spaces may be permitted in the underground parking area as shown on the plans.

3.7.3 The parking area shall be hard surfaced with asphalt or concrete. A portion of the parking area shall be permitted to be pervious pavement as per Section 5.4.1.

3.7.4 The limits of the parking area shall be defined by fencing or landscaping or curb.

- 3.7.5 The developer shall be responsible for the construction of a concrete walkway from the north entrance of the multiple unit dwelling to Highway 2 north of the access driveway. The slope of the walkway shall be designed to be appropriate for pedestrian activity and be a minimum of 1.5 m wide.
- 3.7.6 The Developer shall be responsible for the construction of a walkway system within the site. The system shall connect all external entrances/exits with each other and shall follow the pedestrian flows identified on Schedule B. The system shall be constructed to the following minimum standard:
- a) Walkway minimum width: 1.5 m
  - b) Material: crusher dust, gravel, asphalt or concrete
  - c) Designed in a manner that enables natural drainage and minimizes the risk of the walkway washing out due to resulting drainage.
- 3.7.7 Should NS Transportation and Infrastructure Renewal require parking areas within 10m of their Highway 102 infrastructure to be removed, the developer shall remove the subject parking spaces. Should the developer reduce the number of parking spaces below 165, additional parking spaces shall be provided on the subject lands.
- 3.7.8 The Developer shall be responsible for the removal of existing parking located on NS Transportation and Infrastructure Renewal lands adjacent the highway ramps at Highway 102 prior to Occupancy Permits being issued for residential dwelling units. The Developer shall remove all existing pavement to the extents of the Developers property, ensure there is adequate topsoil for the establishment of grass, establish an appropriate grade and landscape the area with grass seed or sod. The Developer shall be responsible for all costs. The Developer shall coordinate this activity through the Development Officer and Nova Scotia Transportation and Infrastructure Renewal. Removal of the parking area shall be eligible for securities retention under Clause 3.10.4. Prior to the issuance of an occupancy permit, the Developer shall provide written confirmation from Nova Scotia Transportation and Infrastructure Renewal that the removal of the parking and subsequent landscaping meets their needs.
- 3.7.9 The underground parking access and access driveway from the parking lot shall be relocated so that it is outside the riparian buffer shown on Schedule B. The Development Officer shall permit all reasonable variations to the Schedule necessary to ensure compliance with this clause.

### **3.8 OUTDOOR LIGHTING**

- 3.8.1 A Comprehensive Exterior Lighting Plan, prepared by a qualified professional, shall be submitted as part of any development to ensure compliance with Part 4.2.3 of the Planning Districts 14 and 17 Land Use By-law. The Lighting Plan shall be designed in accordance with the following:
- (a) lighting devices shall be designed to direct light to driveways, parking areas, loading area, building entrances and walkways and arranged to divert the light away from streets, adjacent lots and buildings;
  - (b) different luminaries that are purpose oriented (e.g. flush mount lighting for building accent, ground-oriented lighting along pathways) shall be selected to provide a

- coordinated appearance and to light pedestrian pathways, parking spaces, driving aisles, building and site entrances and other relevant site features;
- (c) all outdoor lighting equipment shall comprise full cut-off fixtures that are properly shielded and downward directed to ensure light does not spillover onto adjacent properties;

3.8.2 Prior to the issuance of an occupancy permit, the Developer shall provide certification by a qualified professional, that site lighting has been installed in conformance with the Lighting Plan.

### **3.9 LANDSCAPING**

3.9.1 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.

#### *Landscape Plan*

3.9.2 Prior to the issuance of a Construction Permit, the Developer agrees to provide a Landscape Plan which complies with the provisions of this section and generally conforms with the overall intentions of this agreement. The Landscape Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.

#### *Compliance with Landscaping Plan*

3.9.3 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 Development Agreement.

3.9.4 Notwithstanding Section 3.9.3, the Occupancy Permit may be issued provided that the weather and time of year does not allow the completion of the outstanding landscape works with the exception of sodding between Lake Thomas and the addition to the existing building) and that the Developer supplies a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

#### *Detailed Requirements*

3.9.5 The developer shall remove the portion of parking lot located on Nova Scotia Transportation and Infrastructure Renewal lands at Highway 102. Once removed, the disturbed area shall be landscaped with soil and sod or seed as per Clause 3.7.8.

- 3.9.6 The developer shall design a tree planting program which will minimize the visual impact of the addition to the existing building. The tree planting program shall be applied on the east, south and west sides of the site. Where existing tree screening is provided, additional tree planting is not required.
- 3.9.7 All trees provided shall be a minimum height of 1.52 m (5 ft) and a minimum diameter of 5 centimeters (1.96 inches).
- 3.9.8 The Developer shall ensure that landscaping is provided on all disturbed areas including the stabilization of the area adjacent to Lake Thomas and Mill Run. The developer shall landscape disturbed areas between Lake Thomas and the addition to the existing building with grass sod. All sodding shall be completed prior to the Occupancy Permit being issued as per Clause 3.9.4.

**3.10 AMENITY SPACE FOR MULTIPLE UNIT DWELLING UNITS**

3.10.1 A recreational space shall be a space set aside for recreational purposes such as common recreational areas: play areas, recreational rooms, roof decks, swimming pools and tennis courts. A recreational space shall have no dimension less than thirty (30) feet and a minimum of 50 percent of the outdoor recreational space shall have grades between 0-8 percent. Outdoor recreation space shall be permitted within the riparian buffer. A minimum of 1500 square feet of interior building space shall be dedicated to common recreational space. A minimum of 1500 square feet of roof top deck shall be provided as common recreational space. The minimum amount of recreation space shall be calculated based on the following multiple unit dwelling types:

- |   |              |
|---|--------------|
| a) One Bedroom, Bachelor or<br>Bedsitting | 200 Sq.Ft    |
| b) Two Bedroom                            | 575 Sq.Ft.   |
| c) Three Bedroom                          | 950 Sq.Ft.   |
| d) Four or More Bedrooms                  | 1,325 Sq.Ft. |

**3.11 MAINTENANCE**

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

*Reinstatement*

3.11.2 All disturbed areas shall be reinstated to original condition or better.

**3.12 SIGNS**

3.12.1 The sign requirements shall be accordance with the Planning Districts 14 and 17 Land Use By-law as amended from time to time.

### **3.13 SCREENING**

- 3.13.1 Refuse containers located outside the building shall be fully screened from adjacent properties and from streets by means of opaque fencing or masonry walls with suitable landscaping.
- 3.13.2 Propane tanks and electrical transformers shall be located on the site in such a way to ensure minimal visual impact from the Highway 102 and Highway 2. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing or masonry walls with suitable landscaping.

### **3.14 HOURS OF OPERATION**

- 3.14.1 The restaurant function on the exterior patio shall be permitted to operate between the hours of 7:00 am and 10:00 pm.
- 3.14.2 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 7:00am and 10:00pm.
- 3.14.3 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

## **PART 4: STREETS AND MUNICIPAL SERVICES**

### *General Provisions*

- 4.1.1 All design and construction of primary and secondary service systems shall satisfy Municipal Service Systems Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineer prior to undertaking the work.

### *Off-Site Disturbance*

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

### *Outstanding Site Work*

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

### *On-Site Water System*

- 4.4.1 The Lands shall be serviced through a privately operated on-site water distribution system. Prior to a construction permit, the developer shall provide the Development Officer a copy of permits, licences, and approvals required by the NS Environment

respecting the design, installation, construction of the on-site water system to withdraw water from Lake Thomas. . In accordance with Section 3.2, no permits shall be issued prior to the Development Officer receiving a copy of all permits, licences, and approvals required by the NS Environment respecting the design, installation, construction of the on-site water system.

#### *On-Site Sanitary System*

- 4.5.1 The Lands shall be serviced through privately owned and operated sewer systems and treatment facilities. The Developer agrees to have prepared by a qualified professional and submitted to the Municipality, the NS Department of the Environment and Labour and any other relevant agency, a design for all private sewer systems. In accordance with Section 3.2, no permits shall be issued prior to the Development Officer receiving a copy of all permits, licences, and approvals required by the NS Environment respecting the design, installation, construction of the on-site sewer system.

#### *Solid Waste Facilities*

- 4.6.1 The building shall include designated space for five stream (refuse, recycling and composting) source separation services in accordance with By-law S-600 as amended from time to time. This designated space for source separation services shall be shown on the building plans and approved by the Development Officer and Building Inspector in consultation with Solid Waste Resources.
- 4.6.2 Refuse containers and waste compactors shall be confined to the loading areas of the building, and shall be screened from public view where necessary by means of opaque fencing or masonry walls with suitable landscaping. Loading areas shall be shown on the plans submitted for permitting.
- 4.6.3 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from any street or sidewalk. Further, consideration shall be given to locating of all refuse and recycling material to ensure minimal affect on abutting property owners by means of opaque fencing or masonry walls with suitable landscaping.

#### *Stormwater Management Plan*

- 4.7.1 The Developer shall provide a design of storm drainage system by a qualified professional. The plan shall be provided to the Development Officer and reviewed by NS Transportation and Infrastructure Renewal and the Development Engineer.

#### *Highway No. 2 Improvements*

- 4.8.1 Improvements to Highway No. 2 will be required by the Development Engineer and Nova Scotia Transportation and Infrastructure Renewal (NSTIR). The detailed design for these improvements shall be submitted to the Municipality with the application for a construction permit. The design and construction of the proposed improvements shall meet the requirements of the Municipality, NSTIR and all other relevant agencies or utilities. The Developer will be responsible for all costs related to the improvements and associated works including but not limited to design and construction.

## **PART 5: ENVIRONMENTAL PROTECTION MEASURES**

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

### *Erosion and Sedimentation Control and Grading Plans*

- 5.1.2 Prior to the commencement of any onsite works on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated offsite works, the Developer shall have prepared by a Professional Engineer and submitted to the Municipality a detailed Erosion and Sedimentation Control Plan. The plans shall comply 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 site until the requirements of this clause have been met and implemented.
- 5.2.1 Construction materials and other wastes shall not be burned, buried, or discarded on the Lands.
- 5.2.2 The Developer agrees to observe and comply with the provisions of the Topsoil By-law, and further agrees not to commence any disturbance or removal of topsoil, trees, vegetation, excavation, grading or other site work on the Lands until a permit has been issued by the Municipality pursuant to the Topsoil By-law.
- 5.2.3 The Developer agrees to install stormwater treatment devices to remove oil and grit from stormwater prior to discharge from the site. These devices shall be appropriately sized and installed. The Developer shall be responsible for the maintenance and continued operation of these devices.
- 5.2.4 The Developer shall store any accumulated snow on the paved parking area such that the run-off is directed to the storm treatment device. No snow shall be stockpiled on landscaped areas.

### *Riparian Buffers*

- 5.3.1 Riparian Buffers shall be provided as required in the Planning District 14 and 17 Land Use By-law with the exception of the following:
- (a) The sewage treatment plant and related driveway are permitted to be established as shown on Schedule B subject to Section 3.5.4; and
  - (b) The parking area and walkway adjacent Mill Run are permitted to be established as shown on Schedule B.
  - (c) The establishment of a 1.5 m pathway and outdoor fitness stations within the buffer as identified on Schedule B.
  - (d) Notwithstanding Schedule B, an access driveway shall be permitted east of the existing garage connecting the parking lot adjacent Mill Run with the parking and access driveways located to the south of the existing garage.
- 5.3.2 The pool as shown on Schedule B shall be relocated so that it outside the Riparian buffer shown on Schedule B.
- 5.3.3 The underground parking access and access driveway from the parking lot shall be relocated as per Section 3.7.9.

### *Pervious Surface*

- 5.4.1 Fifty (50) percent of the site shall be pervious surface capable of absorbing storm water. Pervious surface includes natural landscaped areas and pervious pavement.

### *Floodplains*

- 5.5.1 The developer shall identify on all site plans the 1 in 100 year floodplain for Lake Thomas and Mill Run. All buildings shall be located outside the 1 in 100 year floodplains. All residential floor elevations and openings for residential units shall be located above the 1 in 100 year floodplain.

## **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) The granting of an extension to the date of commencement of construction as identified in Section 7.3 of this Agreement;
- (b) The length of time for the completion of the development as identified in 7.4 of this Agreement;
- (c) The reduction in the mass of the building and associated works beyond what is permitted by 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 five 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 installation of the footings and foundation for the proposed building expansion.

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**

Upon the completion of the whole development or complete phases of the development, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement;
- (c) discharge this Agreement; or
- (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Planning Districts 14 and 17, as may be amended from time to time.

### **7.5 Discharge of Agreement**

7.5.1 If the Developer fails to complete the development after seven 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 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:

**(Insert Registered Owner Name)**

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_

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

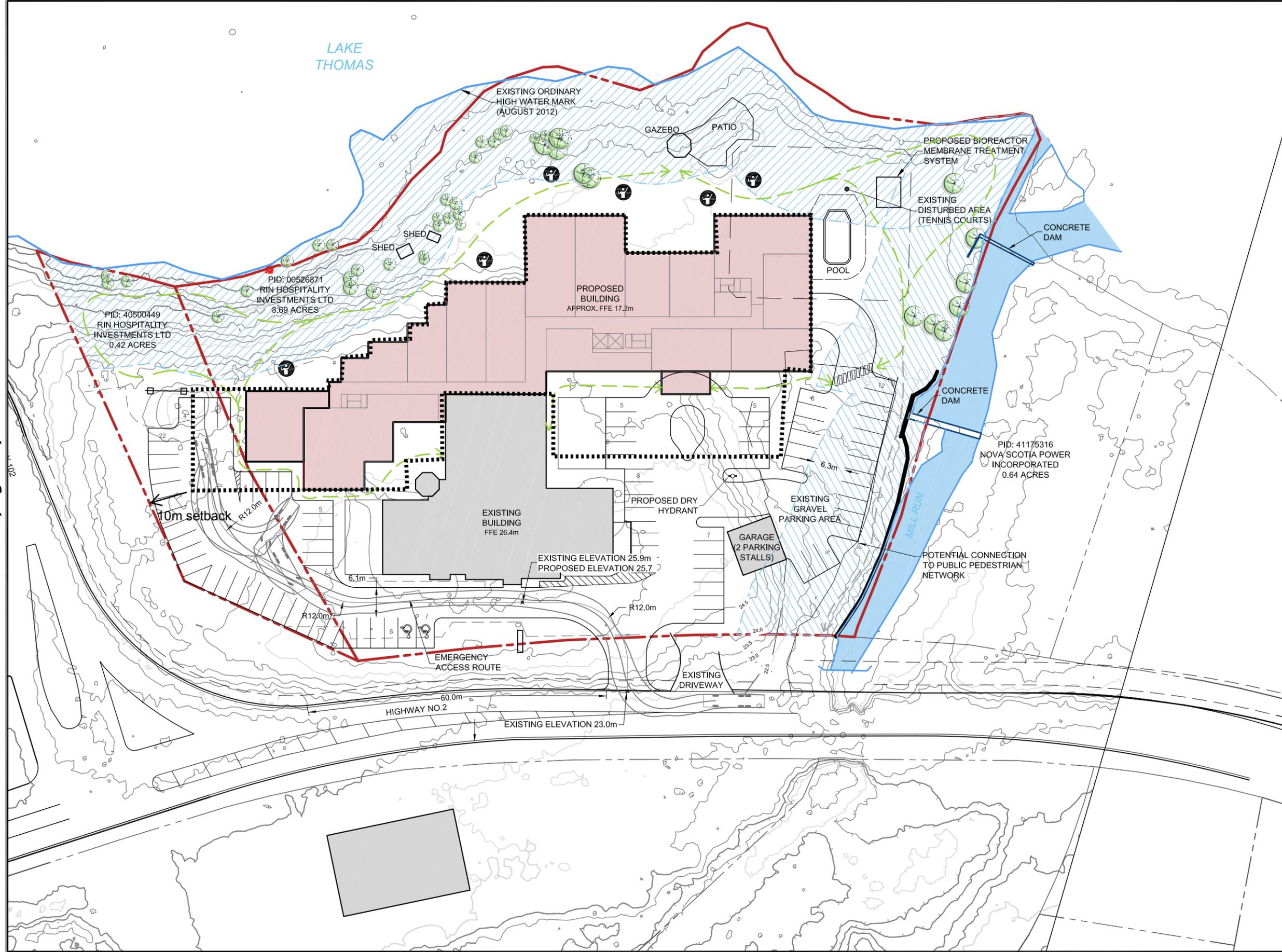
**HALIFAX REGIONAL MUNICIPALITY**

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_  
MAYOR

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_  
MUNICIPAL CLERK



**LEGEND**

- Site Boundary
- Adjacent Property Boundary
- ~ Watercourse
- 20 Metre Buffer
- Pedestrian Flow
- Outdoor Fitness Stations
- Existing Trees

**SITE SUMMARY:**

- Land Area (Total) - 4.0 Acres (16,149 m<sup>2</sup>)
- Reduced access way lane width as per National Building Code Section 3.2.5.6 1 (A) 'Access Route Design'

Underground Parking Area

**VEHICLE PROFILE:**

HRM-Platform meters

Width	: 2.54
Track	: 2.30
Lock to Lock Time	: 6.0
Steering Angle	: 40.0

**PARKING PROVIDED:**

Category	Count
<b>UNDERGROUND</b>	
STANDARD	100
BARRIER FREE	3
<b>SURFACE</b>	
STANDARD	82
BARRIER FREE	3
<b>TOTAL</b>	<b>187</b>

**SOURCES:**

- Service Nova Scotia property mapping.
- Aerial photography.
- NSPI Registered Easement
- Surveyor's Certificate by Allan M. Hunter (Hunter Surveying Ltd) dated March 31, 1988.
- GENIVAR Survey 'DA11372580.DWG' conducted on August 13, 2012

Designer: Iain Grant  
 Planner: Kristin O'toole

**VERSION**  
**112**

**SITE PLAN**

**INN ON THE LAKE**  
 November 28, 2013      DA11372-112

**SCALE**      **NORTH**

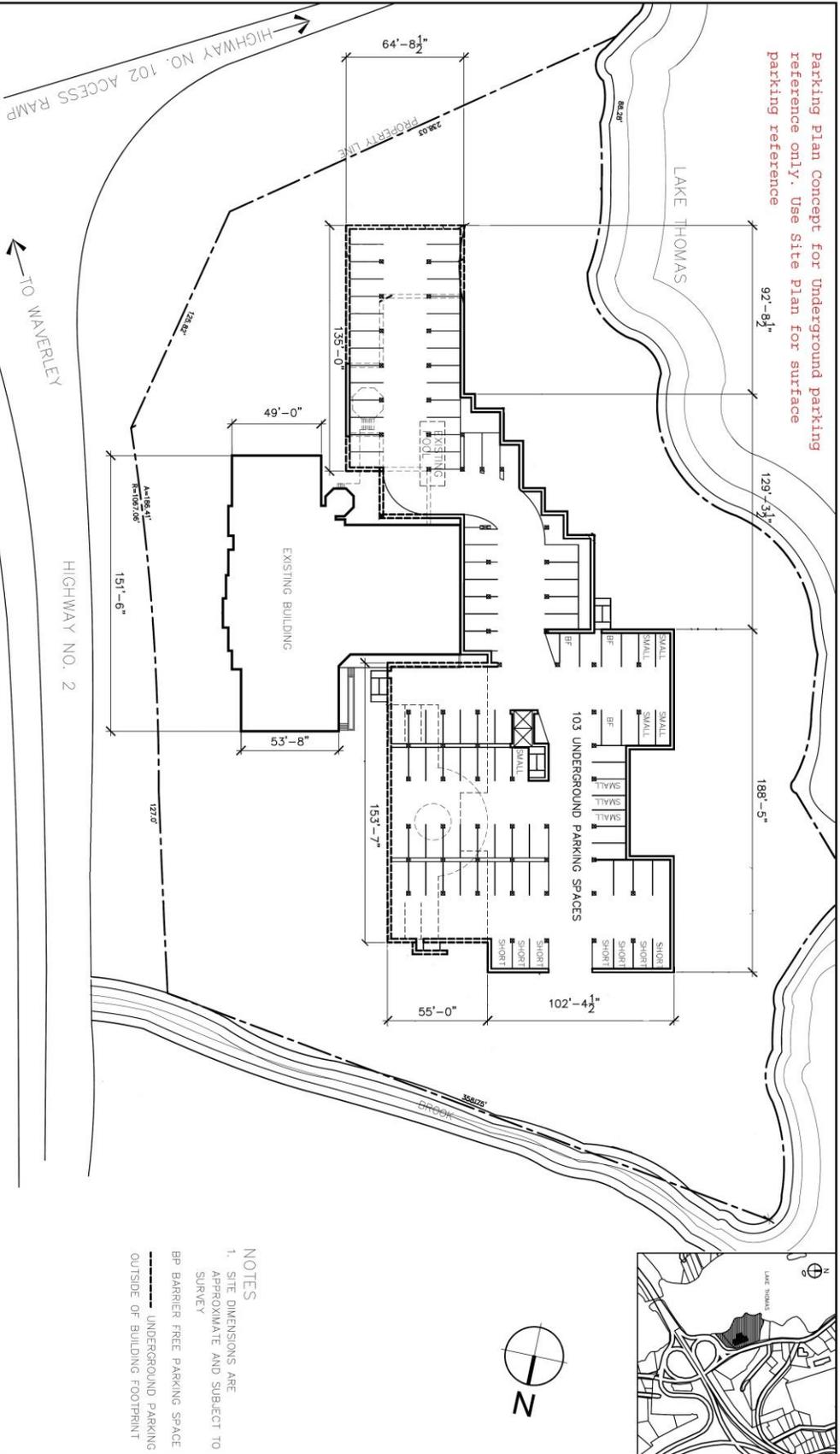
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**GENIVAR**

1 SPECTACLE LAKE DRIVE  
 DARTMOUTH, NOVA SCOTIA  
 CANADA, B3B 1X7  
 PHONE: 902 835-9955 ~ FAX: 902 835-1645  
 WWW.GENIVAR.COM

Schedule C- Floor Plans

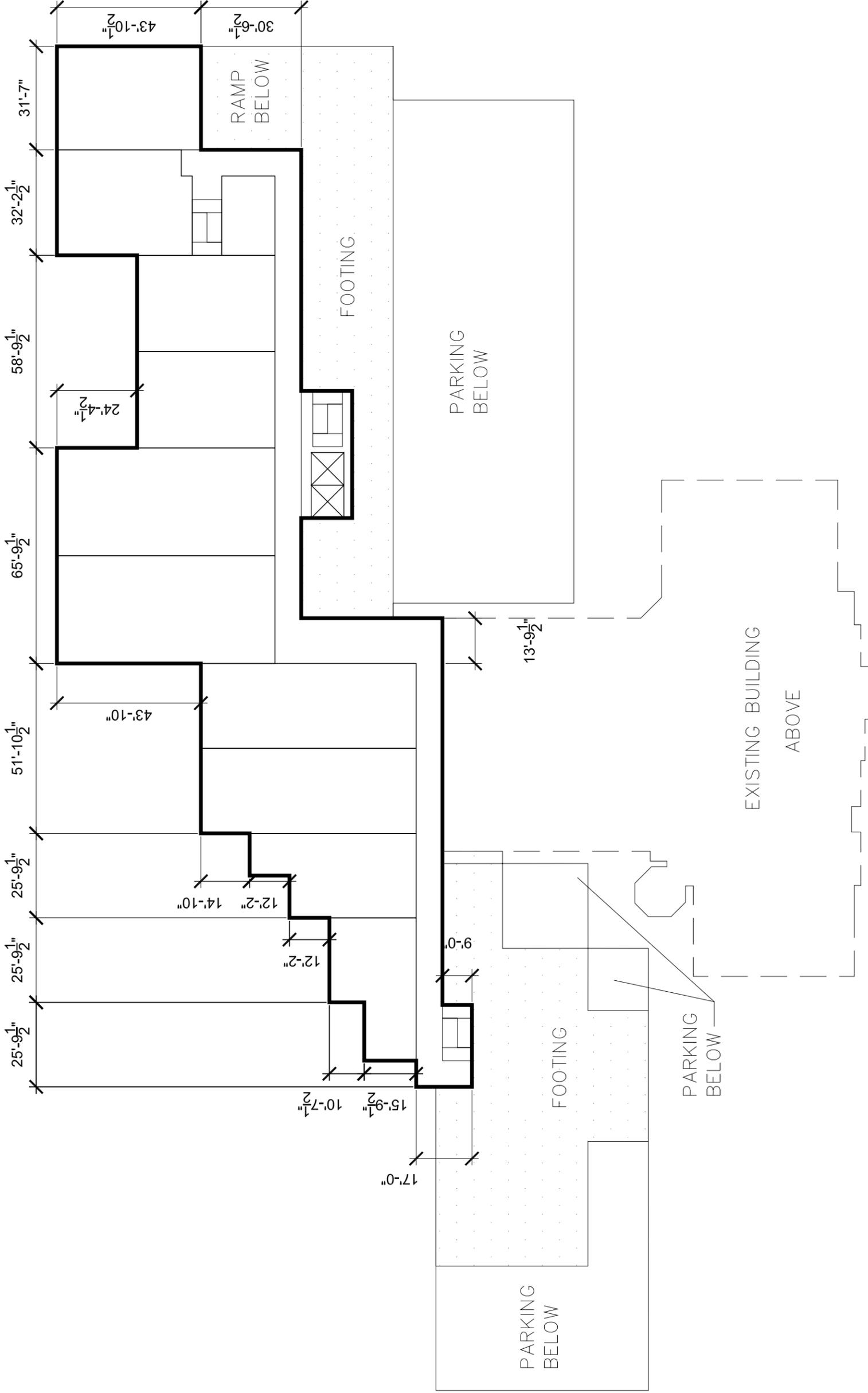
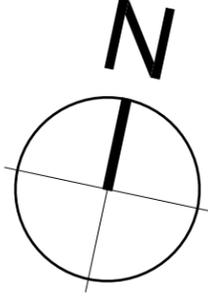
Parking Plan Concept for Underground parking  
 Reference only. Use Site Plan for surface  
 parking reference



NOTES  
 1. SITE DIMENSIONS ARE APPROXIMATE AND SUBJECT TO SURVEY  
 BP BARRIER FREE PARKING SPACE  
 --- UNDERGROUND PARKING OUTSIDE OF BUILDING FOOTPRINT

Based on Drawing No. SK-01.3 by <b>nycum + associates</b> <small>5555 Finch Ave. East, Unit 100, Markham, ON L3R 0Y7                  Tel: (905) 477-1111 Fax: (905) 477-1112</small>		DRAWING TITLE <b>UNDERGROUND PARKING PLAN CONCEPT</b>	DATE SCALE 1" = 50'-0"	PROJ. NO. DRAWN	DRAWING NO.
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# Schedule C- Floor Plans



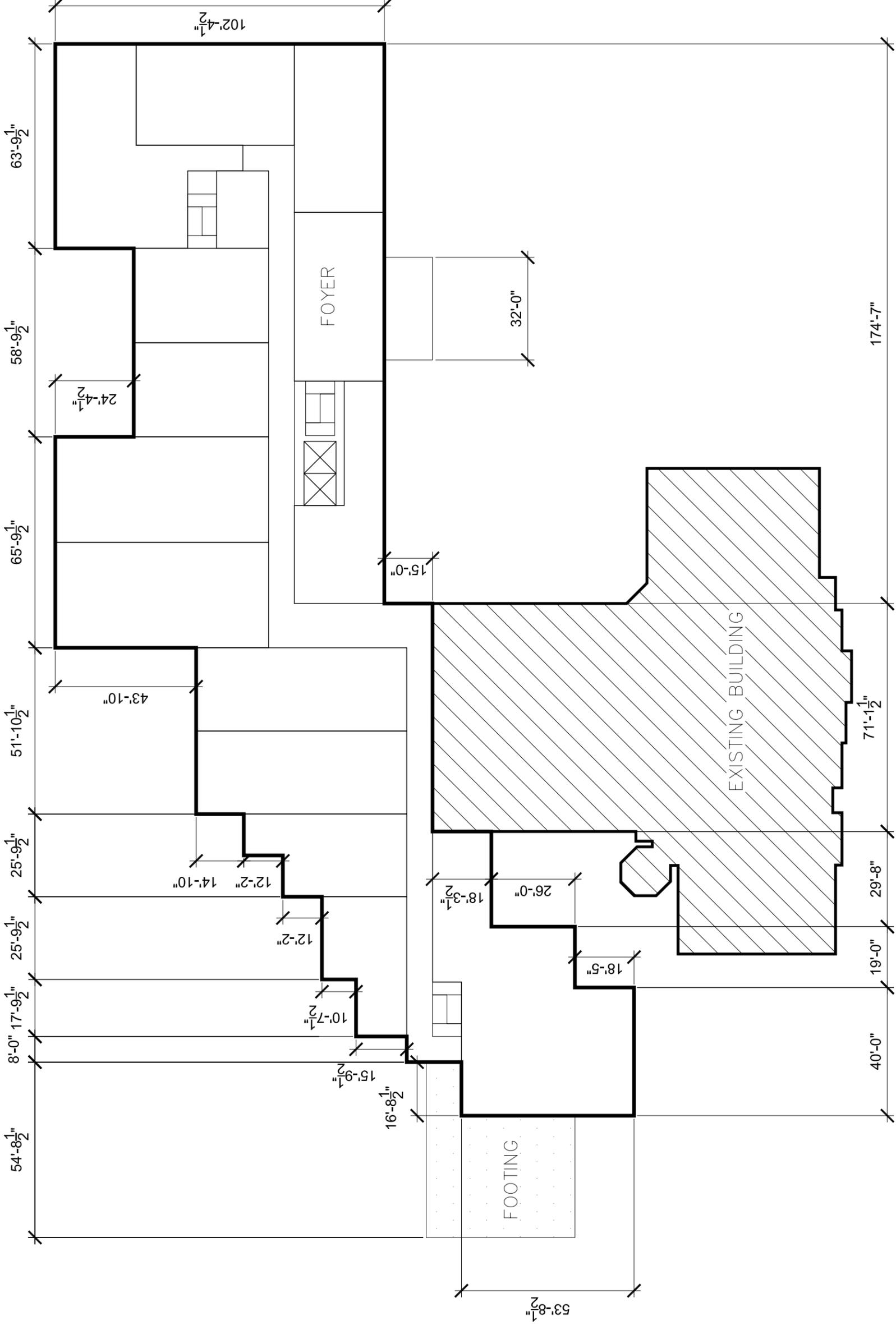
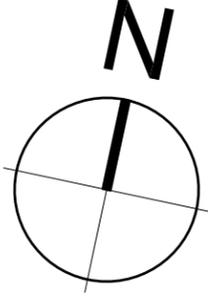
DATE	PROJ. NO.	DRAWING NO.
23 AUGUST 2012	0609	SK-05.1
SCALE	DRAWN	
1/32" = 1'-0"	JDW	

LEVEL 0 PLAN CONCEPT

PROJECT 0609  
 PROPOSED LIFESTYLE CONDOMINIUMS  
 INN ON THE LAKE  
 FALL RIVER, NS

**nycum+**  
 associates  
 5555 Young Street Halifax NS Canada B3K 1Z7  
 p: 902.454.8617 f: 902.454.8620 e: mail@nycum.com

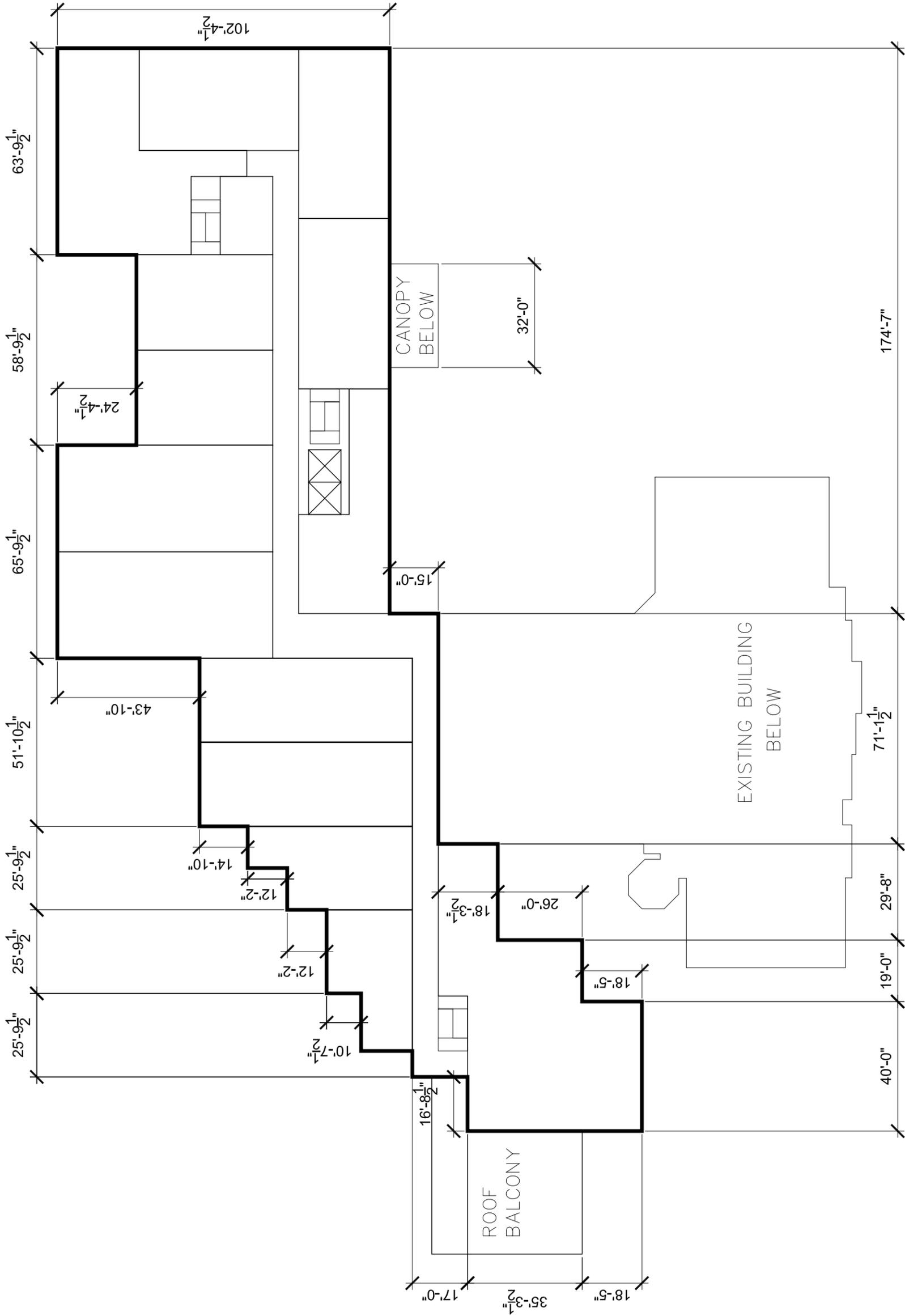
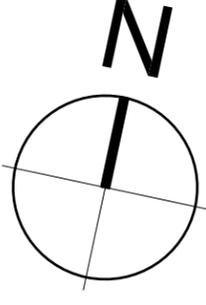
# Schedule C- Floor Plans



 <p>5555 Young Street Halifax NS Canada B3K 1Z7 p: 902.454.8617 f: 902.454.8620 e: mail@nycum.com</p>	PROJECT 0609 PROPOSED LIFESTYLE CONDOMINIUMS INN ON THE LAKE FALL RIVER, NS	DRAWING TITLE <h3>LEVEL 1 PLAN CONCEPT</h3>	DATE 23 AUGUST 2012 SCALE 1/32" = 1'-0"	PROJ. NO. 0609 DRAWN JDW	DRAWING NO. SK-05.2
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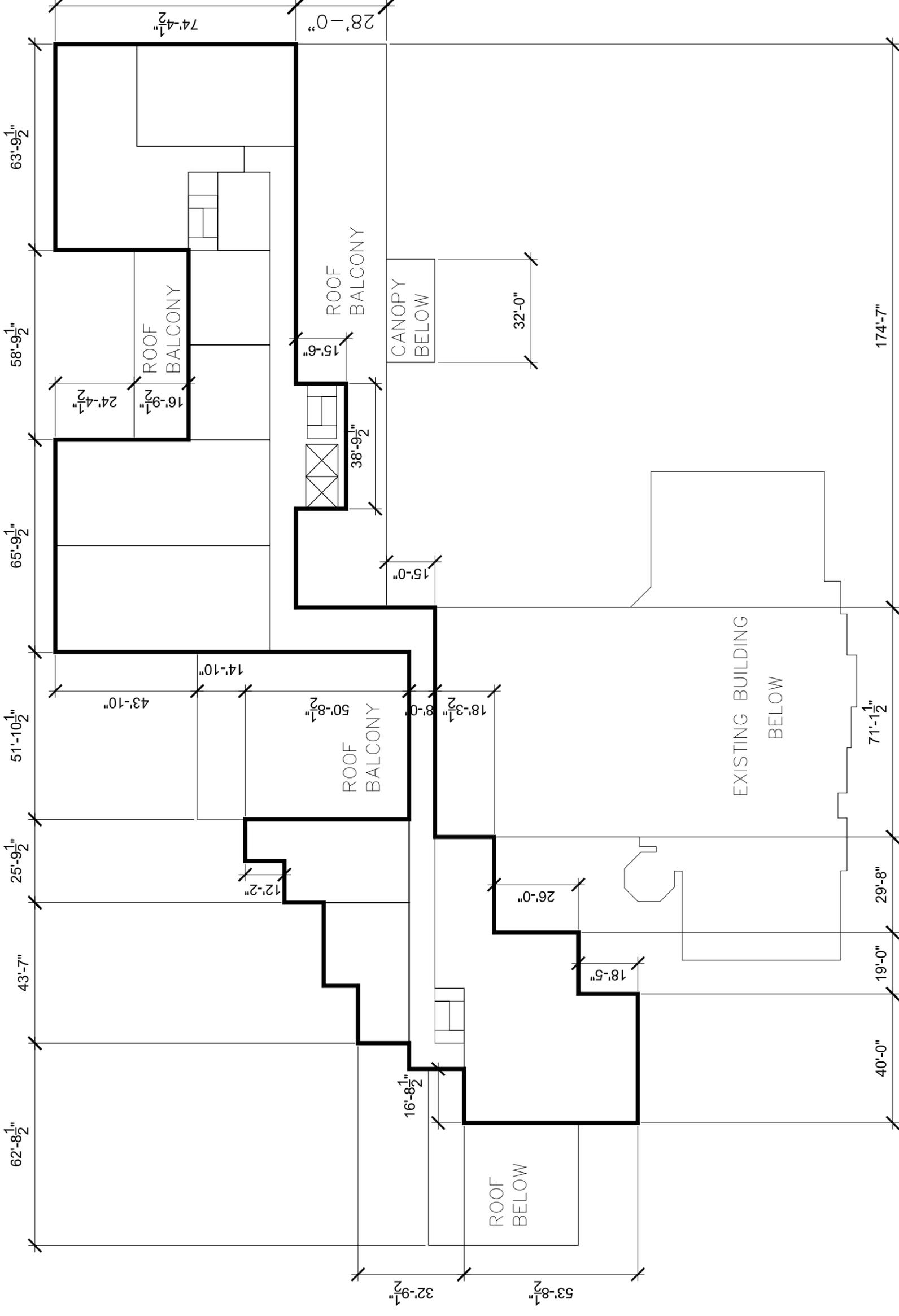
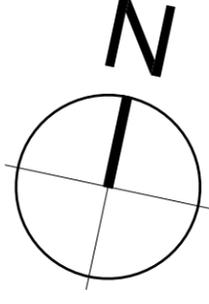


# Schedule C- Floor Plans



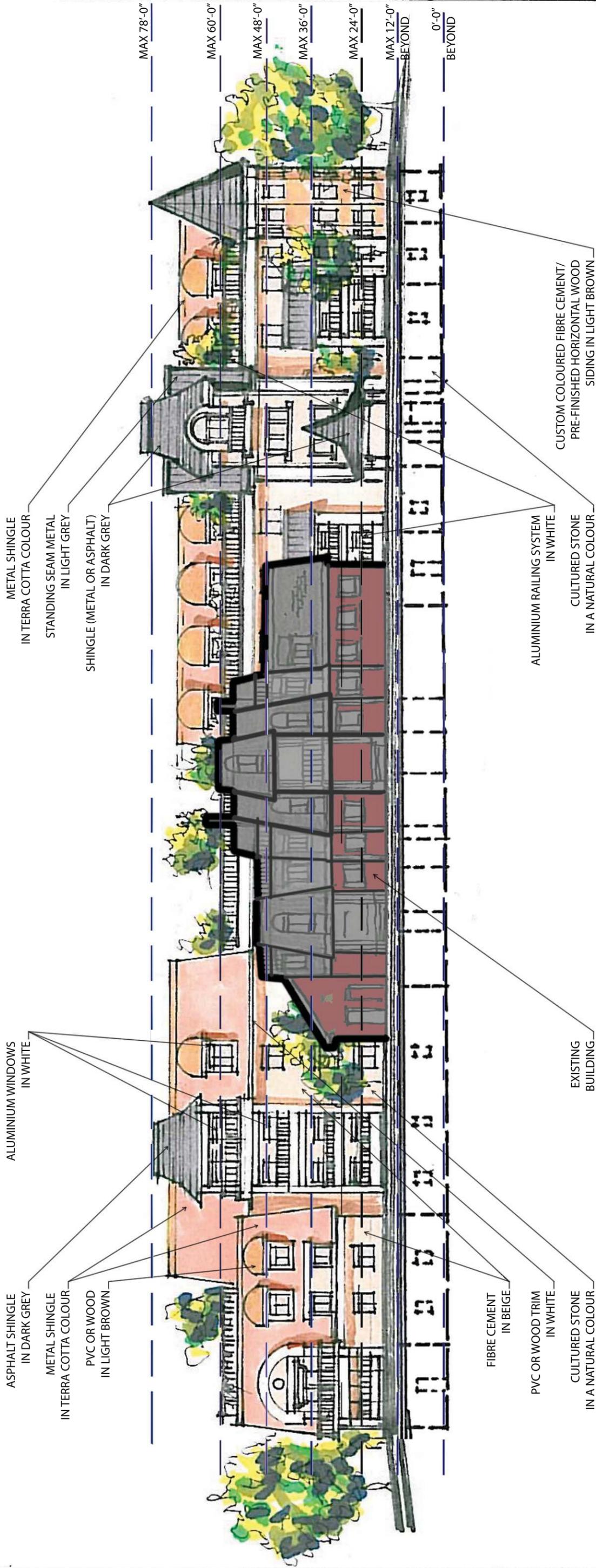
<b>nycum +</b> associates 5555 Young Street Halifax NS Canada B3K 1Z7 p: 902.454.8617 f: 902.454.8620 e: mail@nycum.com	PROJECT 0609 PROPOSED LIFESTYLE CONDOMINIUMS INN ON THE LAKE FALL RIVER, NS	DRAWING TITLE <h2>LEVEL 4 PLAN CONCEPT</h2>	DATE 23 AUGUST 2012 SCALE 1/32" = 1'-0"	PROJ. NO. 0609 DRAWN JDW	DRAWING NO. <b>SK-05.4</b>
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# Schedule C- Floor Plans



 5555 Young Street Halifax NS Canada B3K 1Z7 p: 902.454.8617 f: 902.454.8620 e: mail@nycum.com	PROJECT 0609 PROPOSED LIFESTYLE CONDOMINIUMS INN ON THE LAKE FALL RIVER, NS	DRAWING TITLE	LEVEL 5 PLAN CONCEPT		DATE 23 AUGUST 2012 SCALE 1/32" = 1'-0"	PROJ. NO. 0609 DRAWN JDW	DRAWING NO. SK-05.5
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# Schedule D - Building Elevations



DATE	22 Oct 2014
SCALE	1/32"=1'-0"
PROJ. NO.	0609
DRAWN	BWN
DRAWING NO.	SK-02.4R1

DRAWING TITLE

## East Elevation (View From Waverley Road)

PROJECT

PROPOSED LIFESTYLE CONDOMINIUMS  
INN ON THE LAKE  
FALL RIVER, NS

**nycum+**  
associates

5555 Young Street HALIFAX NS CANADA B3K 1Z7  
p: 902.454.8617 f: 902.454.8620 e: mail@nycum.com

# Schedule D - Building Elevations



DATE	22 Oct 2014	PROJ. NO.	0609	DRAWING NO.	SK-02.2R1
SCALE	1/32"=1'-0"	DRAWN	BWN		

DRAWING TITLE

## West Elevation (View From Lake Thomas)

PROJECT

PROPOSED LIFESTYLE CONDOMINIUMS  
INN ON THE LAKE  
FALL RIVER, NS

**nycum+**  
a s s o c i a t e s

5555 Young Street Halifax NS Canada B3K 1Z7  
p: 902.454.8617 f: 902.454.8620 e: mail@nycum.com

# Schedule D - Building Elevations



DATE	22 Oct 2014	PROJ. NO.	0609	DRAWING NO.	SK-02.3R1
SCALE	1/32"=1'-0"	DRAWN	BWN		

South Elevation

PROJECT  
 PROPOSED LIFESTYLE CONDOMINIUMS  
 INN ON THE LAKE  
 FALL RIVER, NS

**nycum +**  
 a s s o c i a t e s

5555 Young Street Halifax NS Canada B3K 1Z7  
 p: 902.454.8617 f: 902.454.8620 e: mail@nycum.com

# Schedule D - Building Elevations



DATE	22 Oct 2014	PROJ. NO.	0609	DRAWING NO.	SK-02.1R1
SCALE	1/32"=1'-0"	DRAWN	BWN		

DRAWING TITLE

## North Elevation

PROJECT

PROPOSED LIFESTYLE CONDOMINIUMS  
INN ON THE LAKE  
FALL RIVER, NS

**nycum+**  
associates

5555 Young Street HALIFAX NS CANADA B3K 1Z7  
p: 902.454.8617 f: 902.454.8620 e: mail@nycum.com

**Attachment B  
Regional MPS Policy Evaluation  
Regional MPS (2014)**

<b>Policy Criteria</b>	<b>Policy Comment</b>
<i>G-18 Where any completed development agreement application was received by HRM prior to Council's first notification to adopt this Regional Plan, the application shall be considered in accordance with the Regional Plan policies in effect at the time the application was received.</i>	This application was received in 2012 and thus subject to regional MPS requirements in place prior to the current Regional MPS. Applicable policies are found below.
<i>E-10 HRM shall, through the applicable land use by-law, require the retention of a minimum 20 metre wide riparian buffer along all watercourses throughout HRM to protect the chemical, physical and biological functions of marine and freshwater resources. The by-law shall generally prohibit all development within the riparian buffer but provisions shall be made to permit board walks, walkways and trails of limited width, fences, public road crossings, driveway crossings, wastewater, storm and water infrastructure, marine dependent uses, fisheries uses, boat ramps, wharfs, small-scale accessory buildings or structures and attached decks, conservation uses, parks on public lands and historical sites and monuments within the buffer. In addition, no alteration of land levels or the removal of vegetation in relation to development will be permitted.</i>	<p>The site is adjacent two watercourses, Lake Thomas to the west and Mill Run to the north. This policy requires a minimum of 20 metres (66 feet) from all watercourses except in situations where the development regulations are considered prohibitive.</p> <p>While the applicant originally proposed intrusions in the watercourse setback that did not meet the requirements of policy, negotiations successfully have resulted in general compliance with this policy and the implementation of this matter is further discussed in this report.</p> <p>A 20 m non disturbance zone has been established around the site and the development agreement requires the building to be constructed outside these setbacks. Existing disturbances such as parking areas and landscaping have been permitted to continue.</p> <p>The proposed building for the wastewater treatment facility is permitted within the watercourse setback.</p>
<i>E-12 Further to Policy E-10, where a use or development can be considered by development agreement, HRM shall consider, under the development agreement, the acquisition of riparian buffers as public open space as well as alternative uses within the buffers.</i>	The property owner wishes to maintain the lands within the riparian buffer as part of the overall development. The policy does not require the developer to contribute lands and as there is not a subdivision, parkland dedications are not required.
<i>E-13 Further to Policy E-10, HRM shall, through the applicable land use by-law, relax the riparian buffer requirement for lots in existence on the effective date of this Plan and lots shown on current tentative and final subdivision applications, where otherwise development would be prohibitive. No relaxation to the buffer under the by-law shall be permitted for lots created after the effective date of this Plan.</i>	Exemptions in the Land Use By-law are only provided for existing lots with residential dwellings or where the buffer renders and existing lot undevelopable. Existing intrusions may be maintained and the existing accessory buildings, parking areas, deck and gazebo may be maintained. However, several of the existing components of the site are considered landscaping; they include the existing tennis court and the groomed areas of the site. Landscaping is not considered a land use and would not be subject to any grand-fathering regulations which may allow for the establishment of land uses closer to watercourses than otherwise permitted.

**Attachment C**  
**Planning Districts 14 and 17MPS Policy Evaluation**

<b>Policy Criteria</b>	<b>Policy Comment</b>
<p>P 68</p>	<p><i>It shall be the intention of Council to prohibit the development of new multiple unit dwellings within the plan area. Council may, however, consider permitting multiple unit residential uses within any designation, on lands which are served by oversize septic tanks and fields or private sewage treatment plants which were in existence prior to the effective date of this strategy, according to the provisions of Sections 55, 66 and 67 of the Planning Act. In considering such an agreement, Council shall have regard to the following:</i></p>
<p>(a) <i>the means by which solid and liquid waste will be treated;</i></p>	<p>The site is currently serviced with an existing sewer treatment plant discharging to Lake Thomas and withdraws water from Lake Thomas which is then further treated.</p> <p>The proposed development includes a significant expansion and upgrade of the existing sewer treatment plant. Policy is not specific on whether a sewer treatment plant expansion is permitted or not permitted. It is suggested that this is something that Council could consider.</p> <p>The Municipality has little jurisdiction over sewer treatment plants. Discussions with NS Environment (NSE), the relevant regulatory agency, indicate that the proposal could be entertained subject to a sewage treatment plant approval process. This process requires the consideration of supporting environmental studies and a determination of acceptability by NSE. The applicant wishes to complete these studies subsequent to the consideration of the proposal by Community Council. Such an approach has risks associated with it. An analysis by NSE could limit the scale of the treatment and thus require a reduction in the size of the proposal. The applicant has been fully advised of these risks and indicated that they wished to proceed. The risks to the Municipality are minor as the scale of the development is limited by the proposed development agreement and any subsequent approvals by NSE.</p> <p>The proposed development agreement requires the developer prepare the required environmental studies including a receiving waters study before permits are issued by the province, The developer is to provide the Municipality with copies of the applicable permits prior to receiving permits for construction.</p> <p>The proposed multiple unit dwellings to not produce any special solid waste. All waste will dealt with under the Solid Waste By-law.</p>
<p>(b) <i>provisions for the continuing maintenance of the proposed development;</i></p>	<p>The proposed development includes clauses which require the continuing maintenance of all aspects of the development. NS Environment will regulate the operation and maintenance of sewer and water treatment plants.</p>
<p>(c) <i>that the architectural design and scale of any building(s) is compatible with nearby land uses;</i></p>	<p>The proposal is located adjacent to commercially zoned lands and there are no abutting residential properties. The proposal is visible from residential properties approximately 300m (984 feet) away. The scale of the building is larger than other properties in the area but the significant setbacks from Highway 2 and the integration of the building in to the sloping site minimize the impact of the proposal on nearby properties. The architectural design is consistent with the current french mansard design of the existing Inn on the Lake. The proposed design uses architectural features to break up the scale of the building and the mansard roof</p>

<b>Policy Criteria</b>	<b>Policy Comment</b>
	design minimizes the impact of the top storey. While the property will be visible from other properties, the proposal is compatible with nearby land uses.
(d) <i>provisions for landscaping;</i>	The existing site is extensively landscaped. The addition of the multiple unit dwelling addition will enable the maintenance of significant portions of the existing landscaping. The proposed development agreement requires additional tree planting and landscaping and the preparation of a landscape plan by a qualified professional.
(e) <i>the location, size and number of access points and parking areas, and</i>	<p>The proposal has one access point, located south of the existing driveway. The proposed location is a result of changes required to accommodate fire truck access and the construction of a northbound left hand turn lane on Highway 2. An existing secondary access point located to the north of the existing driveway will be closed due to simplify site access and to make access safer. The new main driveway may require the relocation of the Farmer Clem's commercial driveway on NS Power lands on the east side of Highway 2. The new access point meets the requirements of the Municipality and the Province and are subject to further review at detailed design.</p> <p>Provision of parking on the site is challenging for a variety of reasons including, the lot coverage of the proposed building, the cost of providing additional underground parking, the multiple land uses on the site, NSTIR setback requirements and building code.</p> <p>The typical parking required by the Land Use By-law would require approximately 217 parking spaces for Option A and 201 parking spaces for Option B (Figure 1). The parking standards in the Land Use By-law are conservative and may lead to an oversupply of parking. The applicant has asked for reduced parking standards to account for on-site synergies and the challenges identified above. The applicant is proposing approximately 187 parking spaces, however, that number could be reduced by approximately 22 spaces for a total of 165 spaces should the province revoke their authorization to park within 10m of the Highway 102 ramps at Highway 2.</p> <p>A request to reduce the parking requirement are common in planning processes and that a reduction in parking on this site would still enable parking that would meet minimum parking standards established elsewhere (i.e. Ottawa and Moncton). The proposal and development agreement enables sufficient parking for the proposed land uses.</p>
(f) <i>the provisions of Policy P 155.</i>	See detailed comment below

<b>Policy Criteria</b>	<b>Policy Comment</b>
<b>P 154</b> <i>The following uses shall only be considered subject to the entering into of a development agreement according to the Provisions of Section 55, 66 and 67 of the Planning Act.</i>	
(a) <i>within any Designation:</i> (ii) <i>multiple unit residential uses on existing oversize septic systems or existing private sewage treatment plants according to Policy P-68;</i>	The proposed addition to the existing land use is a multiple unit dwelling on an existing oversized sewer treatment plant and thus meets the requirements of this policy.

<b>Policy Criteria</b>	<b>Policy Comment</b>
<i>P 155 In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:</i>	
<i>(a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;</i>	The proposal is reasonably consistent with the intent of the plan and municipal by-laws and regulations.
<i>(b) that the proposal is not premature or inappropriate by reason of:</i> <i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i>	The developer is responsible for all direct costs associated with this development including the construction of a left hand turning lane on Highway 2.
<i>(ii) the adequacy of central or on-site sewerage and water services;</i>	Sewer and water services are regulated through NS Environment. Water services would be through expanded water withdrawals and treatment of lake water from Lake Thomas. NS Environment requires additional environmental studies to take place prior to permits being issued. Because these studies are not complete, and will not be complete until permitting, the developer is assuming some risk. Specifically if the Province does not permit the required withdrawals, a reduction in the scale of the expansion will be required.  Prior to the issue of construction permits, the developer must provide the Municipality with copies of all permits (sewer and water) issued by NS Environment.
<i>(iii) the adequacy or proximity of school, recreation or other community facilities;</i>	The proposed site includes facilities for the residents however the site is as proximate to community facilities in the Fall River area. The site is approximately 1.7 km from the local elementary and junior high schools and 1.9 km from the Gordon Snow Community Centre. Due to the nature of the land use (multiple unit residential) it is not anticipated to generate a significant volume of school aged children.
<i>(iv) the adequacy of road networks leading or adjacent to or within the development; and</i>	A traffic analysis was completed to determine the impacts of development on the general area including the Fall River Road and Highway 2 Intersection, the Highway 102 / Highway 118 interchanges and the Lockview Road and MacPherson Road intersections. The analysis was required to take into consideration the findings of the Fall River / Waverley / Wellington Transportation Study (2010)  The traffic analysis was found to meet HRM and Provincial guidelines and requirements. The analysis suggests the construction of a left hand turning lane on the northbound approach to the site is required to maintain functionality on Highway 2. The developer is required to construct and pay for this upgrade by the development agreement. Further the relocation of the main driveway (to the south) was required to maintain the functionality on Highway 2 and an existing second driveway on Highway 2 is required to be closed.  There are no public roads proposed within the development. With the required upgrades, the road networks are adequate.
<i>(v) potential for damage to or for destruction of designated historic buildings and sites.</i>	The site does not contain nor is adjacent any designated historic buildings.
<i>(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i> <i>(i) type of use;</i>	Use of the site is limited to a hotel, restaurant and pub

<b>Policy Criteria</b>	<b>Policy Comment</b>
	(existing), small scale commercial and multiple unit dwelling units. These uses are limited in scale by the proposed development agreement. Conflict with adjacent uses is not anticipated.
<i>(ii) height, bulk and lot coverage of any proposed building;</i>	The height, bulk and lot coverage is regulated through the development agreement. The proposed development agreement enables limited flexibility to enable the developer to finalize the design of the building and allow the possibility of providing additional underground parking.
<i>(iii) traffic generation, access to and egress from the site, and parking;</i>	The proposed development agreement requires the relocation of the existing driveway, construction of a left hand turning lane on Highway 2 and the closure of the existing secondary driveway. Further details are noted above.
<i>(iv) open storage;</i>	Open storage is not proposed and limited aside from refuse containers which are required to be screened.
<i>(v) signs; and</i>	Signs are required to meet the requirements of the Planning District 14 and 17 Land Use By-law.
<i>(vi) any other relevant matter of planning concern.</i>	<p><u>Pedestrian Network</u> -The development agreement requires a network of pedestrian connections throughout the site, including connections to Highway 2. There is a lack of a concrete sidewalk along the front of the existing Hotel portion of the site. Unfortunately due to Building Code requirements for fire access, the maintenance of the driveway in this area was a requirement. Through the detailed design process, the applicant may be able to engineer a solution to this matter.</p> <p>Further, it is recommended that Community Council consider recommending to Regional Council the construction of sidewalks along Highway 2 to the subject site.</p> <p><u>Need for Alternate Housing</u> - There is an extreme shortage of alternate housing in the Fall River and surrounding area. Long standing policies in the MPS limited development in the area to single unit dwellings only with the exception of select sites, including the subject property. During the preparation of the River Lakes SPS and the Fall River Vision Process, significant discussion on the need for different forms of housing was had. As a result, the River Lakes SPS identified several sites as opportunity sites for alternate housing forms such as townhouses or multiple unit dwellings. During that process, the policies which enabled multiple unit development on this site were recognized and acknowledged. One of the goals of the SPS is to enable development of a variety of housing types that provide for a wide range of demographic needs and people with varying incomes. Further the Regional MPS identifies providing housing opportunities for a range of social and economic needs and promote aging in place as a goal for the design of communities.</p> <p>The proposed development meets this objective through the provision of multiple unit dwelling units that tend to be more accessible than single unit dwellings, the predominate form of housing in the Fall River area.</p>
<i>(d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.</i>	The site is suitable for development however, the site is adjacent to two watercourses which could be subject to flooding. The proposed development agreement requires the mapping of any areas susceptible to flooding prior to permitting. Development is not permitted in these areas.

<b>Policy Criteria</b>	<b>Policy Comment</b>
P 156	<i>In considering amendments to the land use by-law or development agreements, Council shall hold a public hearing according to the provisions of Section 60 of the Planning Act.</i>
	A public hearing is required prior to a decision on the proposed development agreement.

**Attachment D**  
**River Lake SPS Policy Evaluation**

<b>Policy Criteria</b>	<b>Policy Comment</b>
<p><i>RL-1 The River-lakes Secondary Plan, as graphically illustrated on Map RL-1 and as outlined on the Generalized Land Use Maps 1A and 1B of the Municipal Planning Strategy for Planning Districts 14 and 17 for official reference, shall form the framework to guide the provision of services and future development that is in keeping with the desire of the community to maintain the rural village atmosphere and rural character of the River-lakes Communities. This Plan shall include the establishment of a River-lakes River-lakes Village Centre Designation to achieve the Vision for creating a gathering place for the surrounding communities. This Plan shall also contain policies to foster the development of an open space and trails network, regulate the future development of low-rise multiple-unit dwellings and townhouses on a few opportunity sites, and implement policies for the protection of the lakes throughout the River-lakes Secondary Planning Strategy Area. All other policies for land use development and service provision under the Municipal Planning Strategy and Land Use By-law for Planning Districts 14 and 17 shall continue to apply to this Secondary Planning Strategy Area unless altered or replaced by the following policies within this Secondary Plan. Future transportation, environment and residential development policies shall be created under the Phase II process for application to this Secondary Planning Strategy Area.</i></p>	<p>This policy identifies all other policies for land use development under the Municipal Planning Strategy and Land Use By-law for Planning Districts 14 and 17 shall continue to apply thus enabling Council to consider Policy P-68 which is the enabling policy for the proposed development agreement.</p>
<p><i>RL-6 Within the River-lakes Village Centre Designation, the Village Gateway Zone shall be created under the schedules of Land Use By-law. The intent of this Zone is to create an attractive form of development to create a visually pleasing entry way into the community while allowing for the development of commercial activities that will benefit from the location at provincial highway interchanges. Provisions will be established under the Land Use By-law to:</i></p> <p><i>(f) allow a larger scale development where compatible the surrounding area on the site of the Inn on the Lake as shown on Schedule J of the Land Use By-law and on the four sites combined of the Nova Scotia Power Corporation as shown on Schedule K of the Land Use By-law.</i></p>	<p>This policy identifies that larger scale uses are permitted on the Inn on the Lake site through provisions in the Land Use By-law. Council has further discretion through the development agreement to further vary from the standards set out in the Land Use By-law.</p>
<p><i>RL-16 In recognition of the community desire to work toward the future development of an interconnected system of trails, HRM shall adopt the River-lakes Trail and Open Space Conceptual Plan as outlined on Map RL-4, as a framework to guide future detailed planning and implementation. The community is strongly encouraged to work towards the future development of these detailed plans and implementation strategies through collaboration with the Halifax Regional Trails Association under the HRM Trails Program.</i></p>	<p>The subject site is located adjacent the proposed River-Lakes Trail.</p>

<b>Policy Criteria</b>	<b>Policy Comment</b>
<p><i>RL-17 Given the opportunities for public recreation and the excellent opportunities for access to the unique ecological and cultural heritage assets along the Priority Trail Connectors identified on Map RL-4 River-lakes Trail and Open Space Conceptual Plan, HRM shall, to the greatest extent possible, give priority to the acquisition and development of trails and open space assets along these Connectors, through the parkland dedication process under the Regional Subdivision By-law for all applicable subdivision developments within the River-lakes Plan Area and its Village Centre.</i></p>	<p>The subject site is located adjacent the proposed River-Lakes Trail but not subject to a subdivision and thus the Municipality is not eligible to acquire land for park purposes.</p>
<p><i>RL-18 HRM shall negotiate through the development agreement process to acquire land or secure the use of the land between the MacDonald Sports Park and Fall River Village for a trail and other trails as indicated on the Maps RL-4 and Map RL-5 for all developments considered by development agreement within the River-lakes Plan Area and its Village Centre.</i></p>	<p>The subject site is located adjacent the proposed River-Lakes Trail. There appears to be sufficient right-of-way to enable the trail to be accommodated off-site. It does not appear that the trail was ever envisioned to be located through the subject site.</p>
<p><i>RL-23 The following measures shall be incorporated into all development agreements in the River-lakes Secondary Planning Strategy Area:</i>  <i>(a) A site non- disturbance area of a minimum of 50% of the site or greater if required pursuant to any other policies within this Secondary Planning Strategy or the Regional Municipal Planning Strategy; and</i></p>	<p>This policy requires that a site non-disturbance area be incorporated in to all development agreements. The role of this non-disturbance area as identified in the preamble to the policy is to “require the retention of 50% of each site as pervious surface” and “enable the uptake of phosphorous” via natural ground water absorption. While the intent of the policy is to encourage the absorption of storm water, the remedy articulated is specific, the creation of a non-disturbance area. This appears to be an error in the drafting of the policy.</p> <p>Pervious paving includes a range of materials and techniques which include a base and sub base that allow the movement of stormwater through the surface to enable the absorption. While the proposed agreement does not meet the specific conditions of the policy, it fully meets the intent of the policy as a whole.</p> <p>In order for the specific proposal to be considered, it is suggested that a proposed provision of 50 percent pervious surface be included in the proposed development agreement. It is suggested that this meets the intent of this policy section but not the specific wording of the section.</p> <p>It is recommended that Community Council further consider recommending that Regional Council make amendments to policy RL-23 to clarify the intent of this policy.</p>
<p><i>(b) Stormwater management and erosion and sedimentation control plans are in place to minimize impact on receiving waters.</i></p>	<p>The proposed development agreement require the developer to provide stormwater and erosion and sedimentation control plans prior to permits being considered.</p>
<p><i>RL-25 As an interim measure, HRM shall require the proponents for any large scale residential developments considered through the provisions of Policies RL-11, RL-12, RL-13, RL-14 and RL-15 of this Secondary Planning Strategy or commercial development considered pursuant to policies RL-4 and RL-5 or Policy P-68 of the Planning Districts 14/17 Municipal Planning Strategy and polices S-15 and S-16 of the Regional Municipal Planning</i></p>	<p>This policy requires a traffic study to determine the impacts of development on the Fall River Road and Highway 2 Intersection, the Highway 102 / Highway 118 interchanges and the Lockview Road and MacPherson Road intersections. The study was required to take into consideration the findings of the Fall River/Waverley/Wellington Transportation Study (2010) and the amount of development permitted is to be regulated on the basis of the receiving road network capacity.</p>

<b>Policy Criteria</b>	<b>Policy Comment</b>
<p><i>Strategy, to submit a traffic study to determine the impacts of development on the Fall River Road and Highway 2 Intersection, the Highway 102 / Highway 118 interchanges and the Lockview Road and MacPherson Road intersection. The study shall take into consideration the findings of the Fall River/Waverley/Wellington Transportation Study and the amount of development permitted in areas subject to these development agreements shall be regulated on the basis of the receiving road network capacity and the provisions of Policy RL-22.</i></p>	<p>A traffic analysis was submitted by the Developer and was found to meet HRM and Provincial guidelines and requirements. The study required the construction of a left hand turning lane on the northbound approach to the site. The developer is required to construct and pay for this upgrade in the development agreement.</p> <p>The proposed development meets the needs of this requirement, and does not have to meet the requirements of Policy RL-22.</p>

**Attachment E**  
**Public Information Meeting Minutes – May 16, 2012**

**HALIFAX REGIONAL MUNICIPALITY**  
**Public Information Meeting**  
**Case No. 17651**

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**Wednesday, May 16, 2012**  
**7:00 p.m.**  
**Ash Lee Jefferson Elementary School**

**STAFF IN**

**ATTENDANCE:** Andrew Bone, Planner, HRM Planning Applications  
Thea Langille, Supervisor, HRM Planning Applications  
Alden Thurston, Planning Technician, HRM Planning Applications  
Cara McFarlane, Planning Controller, HRM Planning Applications

**ALSO IN**

**ATTENDANCE:** Councillor Barry Dalrymple, District 2  
Nathan Rogers, Genivar Inc.

**PUBLIC IN**

**ATTENDANCE:** Approximately 61

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**1. Call to order, purpose of meeting – Andrew Bone**

Tonight's meeting is for an application by Genivar Inc., for the lands of RIN Hospitality Investments Limited, to enter into a development agreement to permit 72 residential units in a multiple unit dwelling at 3009 Highway 2.

The purpose of the public information meeting (PIM) is to identify that HRM has received an application for a development on this property; to give the public background on the proposal and to receive feedback on the proposed development. No decisions are made at the PIM. It is also an opportunity for the applicant to hear what the community has to say and take that into account with their proposal.

The agenda was reviewed.

**Mr. Bone** introduced himself as the planner facilitating the application through the planning process; Councillor Barry Dalrymple, District 2; Thea Langille, Supervisor for HRM Planning Applications; Cara McFarlane and Alden Thurston, HRM Planning Applications; and on behalf of RIN Hospitality Investments Limited, Nathan Rogers from Genivar Inc.

**2. Overview of planning process – Andrew Bone**

The following is the planning process; the PIM; then to the Halifax Watershed Advisory Board (HWAB) because the property is adjacent to Lake Thomas; then a detailed internal review of the proposal is done; a review with any provincial agencies as required [Nova Scotia Transportation and Infrastructure (NSTI), Department of Environment (DOE)]; a staff report is prepared including a draft development agreement and a recommendation; staff makes a recommendation to Marine Drive, Valley and Canal Community Council (MDVCCC) on whether council should accept that development agreement; MDVCCC will decide if they want to hold a public hearing where there will be another opportunity for the public to voice their opinions on

the final proposal; MDVCCC makes a decision on the proposal which is then followed by a 14 day appeal period where anyone could make an appeal to the Nova Scotia Utility and Review Board (NSUARB) and identify why they think council made a wrong decision. Typically, that argument has to be based on policy. Once the development agreement has been registered, the property owner is bound by that agreement.

### **3. Presentation of Proposal – Andrew Bone**

The Planning District 14 and 17 Municipal Planning Strategy (MPS) dates from the late 1980s. Policy allows for council to consider a development agreement (a legal contract) with a property owner where there is an existing oversized septic tank or field or private sewage treatment system. In this case, the Inn On The Lake has their own private treatment plant making this site eligible to be considered under this policy.

The policy deals with several issues that have to be addressed and staff has to provide feedback to council on these specific matters: The treatment of solid waste and liquid waste from the site; provisions for continued maintenance of the development; the architectural design and scale of any buildings ensuring that it is compatible with nearby land uses; provisions for landscaping; the location, size, number of access points and parking areas; and Policy P-155 (a catch all/implementation policy which allows us to bring any planning issue into consideration when these proposals are taken to council). When we write a report at a later point, these specific issues and anything else that comes up in the process have to be addressed.

A development agreement is a legal, negotiated agreement (contract) between HRM and an individual property owner that typically overrides the land use by-law and allows a use that would not normally be permitted (in this case, a multiple unit dwelling). A multiple unit dwelling is basically an apartment building. It can be rental or condos. HRM does not regulate ownership in the development agreements. The MPS, through Policy P-68, in general terms, spells out when and where. This proposal is one of the few sites eligible for this type of land use. The policy criteria to be covered in a development agreement are those identified earlier, as well as very general things on how the site is laid out, where the uses are going to be, the extent of the uses, etc.

Existing conditions on the 4.2 acre site are a hotel with meeting rooms, a bar, restaurant, pool, parking areas, tennis court, beach and landscaped area.

### **Presentation of Proposal – Nathan Rogers, GENIVAR Inc.**

This application was put together by Genivar, Nycom Architects and ABL Environmental. The site is located just off of Exit 5 on Highway #2. Through the Fall River Visioning Process, the draft River Lakes Secondary Plan states that there is an urgent need for multiple unit housing in the Fall River area.

The Inn On The Lake building itself is clearly a cultural icon for this community. It is the entry point to Fall River and its architectural importance in the neighbourhood is extremely important to maintain as well as the shoreline to Lake Thomas and HRM's requirement of a 20 metre buffer from the high watermark.

The site is ideally located to Highways 2 and 102 interchange at Exit 5. Inn On The Lake is the entry point to Fall River and maintaining that view is very important as well as the vegetation and landscaping on the site. Millbrook has a Nova Scotia Power dam across it presently and the

developer wants to maintain and protect that watercourse.

Only 2% of the housing stock in Fall River is apartment style housing. In 2011, 16% of Nova Scotians, according to Stats Canada, were over the age of 65. If people want to stay in their communities, not everyone is necessarily going to live in a single family home their entire lives. The Fall River Visioning Committee identified this area and the lands across as the gateway for the village of Fall River. Excellent quality design is necessary to maintain that gateway. Inn On The Lake is currently an iconic building and any addition to it, especially a residential development, should maintain and be consistent with that design and include gardens, greenhouses and pervious landscaping by leaving lots of open space to allow the water to naturally infiltrate. The developer wants to be conscious of Lake Thomas and Millbrook.

Currently, approximately 42% of the site is impervious and with the proposal, 51%. This project is proposing a MBR (Membrane Bio-Reactor) Wastewater Treatment System which would be beneficial to Lake Thomas and the Shubenacadie Lake system. ABL Environmental noted that if this system is built, it would be the highest level of wastewater treatment in HRM. A MBR System has thousands of fibres that work together to ensure a robust and stable system.

The proposal is for a 75 unit apartment/condo building to be literally attached to the Inn On The Lake. Currently, there are a number of hotels at the airport and two more to come. Given that, if the Inn On The Lake is no longer a viable and successful business, the developer would like the option to convert some of the units (combine two or three together) into additional housing units. The intent though is to maintain the inn as well as a multiple unit dwelling. It has also been requested that if meeting rooms for the hotel become an unviable use, the develop could perhaps transfer these to service or small shops. Access to the site currently exists in two driveways but the traffic impact review suggests that one of these be closed. The site accommodates 190 parking stalls, surface parking more or less as existing today and a significant number of underground parking stalls in the building (103 under the building). Part of the proposal includes enhancing a walking trail with outdoor active exercise equipment. The developer wants to provide amenity on site for residents and future hotel guests to use the property including a pool, walking trail, gardens and a shared rooftop patio and obviously there is lake access for residents and guests.

Different elevation perspectives were shown.

#### 4. Questions and Comments

**Dick Boyce, Lockview Road** – A resident for 40 years in the area. Would like to see the development somewhere else as the two lane highway there is already clogged. It is almost impossible to make a left-hand turn when you come off Highway 102 from the airport because there are no lights there.

**Mr. Boyce** - Where is the water coming from? **Mr. Bone** currently believes the water is coming from the lake. The Inn On The Lake has a permit to draw a limited amount of water. The proposal that has been submitted identifies that they would like to expand their water withdrawal. It still has to be reviewed by HRM and DOE.

**Mr. Boyce** mentioned that about 20 years ago studies were done on the lakes and results showed that they were fragile. The residents on the street wanted a treatment plant put in basically because of the mobile homes and the situation on MacPherson Drive. It was recommended that an extra grade sewage treatment plant be put in and the residents paid

around \$10,000 to hook up. Where is the water treatment plant in this? Will there be a problem with surge and runoff with 75 units in addition to the 39? **Mr. Rogers** pointed out the location of the plant on the map. The MBR Systems are known for their small footprint. They are extremely robust and stable.

**Mr. Boyce** – Is concerned that if something like this starts in the community, it will continue. **Mr. Rogers** said that this is a unique site where Policy P-68 can be applied. Through the visioning project, strict controls are on the way to limit future development in a sustainable and village atmosphere model that we are trying to emulate with the Inn On The Lake project. **Mr. Bone** is only aware of one or two other sites that may be eligible for this policy.

**Michael Creighton, Lockview Road, Chair of the Fall River Visioning Committee** – 51% impervious surface is rather large. He wondered about stormwater capture and treatment because a lot of effluent would wash off of the large parking lot into the lake. **Mr. Rogers** said that stormwater management plan has not been designed yet but will be included in the development agreement.

**Jim Simon, Lakeview** – there has been substantial changes to the waterfront since 2003. Is the riparian buffer going to come from the original lakeshore or the infilled area? **Mr. Rogers** said that the property line that the survey was based on is from 1987. **Mr. Bone** mentioned that those issues have not been reviewed yet.

**Mr. Simon** – If the 51% impervious surface includes the riparian buffer, then the area you can build on would be closer to 80 or 90% of the surface.

**Peter Molson, Lake Thomas Crescent** – Would like to know if the units are going to be condos or apartments. If you have 75 units, there will probably be a minimum of 150 people. According to one report, the restaurant area may be converted to units as well; therefore, you are actually looking at more units and people. With 75 units there would be at least 130 vehicles accessing Highway 102 and making left-hand turns. It will be more congested than it currently is. **Mr. Bone** mentioned that the development agreement cannot specify whether the units are rentals or condos.

**Mr. Molson** – The water level has come down considerably since the dam was built. If the water is going to be drawn from the lake, it will lower the level of all the properties around that lake. **Mr. Bone** said with regards to the water/sewage treatment plants, the withdrawal of water from the lake and transportation issues that come from this proposal are all part of the review process which in the end will help guide staff's recommendation to MDVCCC.

**Mr. Molson** – Had a question about the underground parking facility, but it had already been addressed.

**Mr. Molson** – Everyone should be able to access and enjoy the lake. The lake is small so there is going to have to be a restriction on the number of outboard motor boats on the lake.

**Bruce Hubley, Hemlock Road** – Currently, the road is backed up over 1,000 feet from where the intersection goes off of Highways 102 and 118. The architecture of the proposal is beautiful and would set nice in the community but that road is going to be a fender bender for vehicles. He sees it creating a bit of aggression and accidents are going to happen.

**George Green, Highway #2** – He is not against development but that interchange has become a choke point and more accidents will happen. The existing infrastructure does not support current development and housing. Since the Sobeys Plaza was built about 11 or 12 years ago, traffic has grown substantially. There is land in the community away from that interchange and the lake that would better suit this proposal. He does not want to see six, seven or eight storey building when coming off the highway. The beautiful lakefront there is disappearing. As far as Inn On The Lake being the gateway to Fall River, maybe there should be more access points. The Inn On The Lake as it exists now is a rather attractive building. It has a very interesting structure to it. He agrees with more multiple unit residential as the population is aging but there is an opportunity to put a beautiful building like the proposed in a more aesthetically pleasing and more practical location in terms of the existing infrastructure.

**Sandar Carr, St. Andrews Drive** – Likes the proposal but does not want a six storey building (or four storeys in the front) in Fall River. The visioning program has implemented buildings no more than three storeys in height. She understands that Mr. Nelson had this land before all of these regulations are going in place but this would be setting a precedence.

**Lois Miller, Cora Lane** – Grew up across the road on Millbrook (Miller's Creek). She used to be able to see around the highwater mark there but it has long since been filled in by Inn On The Lake. She is concerned about the water quality and quantity. Many small structures along Lakes Thomas and Fletcher have been replaced with buildings with a much larger footprint. Development pressure is increasing. Where is the water coming from? Where will the wastewater be going? The lake system is very fragile. She feels that 75 units with the water intake and outflow is far too much for this site.

**Ms. Miller** – Currently, there is far too much traffic on Highway 2. Trying to make left turns into Inn On The Lake right now is extremely difficult if you are going north on Highway 2.

**Ms. Miller** – Insufficient infrastructure, public transportation and water and sewer in the region and area are some of the reasons there is only 2% of multiple unit housing. **Mr. Bone** explained that when the MPS was drafted in the late 1980s, there were issues with the way septic fields and permits were issued and concern with malfunctioning systems especially larger scale ones. At the time when the MPS came into effect, the council of the day chose not to permit multiple unit dwellings because of septic issues. Since that time, DOE and the Province have dramatically changed their rules and how permits are issued and there are newer systems on the market; therefore, there are now means to possibly deal with multiple unit dwellings. He believes the draft Fall River MPS and LUB will make more opportunities available on select sites.

**Keith Manchester, Fletcher Drive** – He has sat on the Fall River Visioning Committee and HWAB (for 10 years). Inn On The Lake is one of the best developments seen in the Fall River area in the last 20 years. His property goes to the lake. The water goes up and down but that is a seasonal thing and it has gotten better rather than worse over the years. He believes that the MBR System will probably increase the quality of the water in the lake rather than reduce it. He is concerned about the stormwater coming off of the site. It should be treated by stormceptors to take the oil out. The amount of pollution going into the lake would be minor and may actually be less than present because the Inn On The Lake does not have stormceptors on their parking lot.

**Mr. Manchester** – The anticipated traffic may not be bad because most of the people living in the building will probably be seniors and not driving during the peak traffic times. The developer

cannot be blamed for the Province's lack of advanced planning. **Mr. Bone** explained that during the internal review, the proposal will be treated like any multiple unit building in terms of criteria.

**Mr. Creighton** – After six years, the draft River Lakes Secondary Planning Strategy is close to being done and he has been given a promise that the document will be on the website by the end of the week. It covers all issues and he encouraged everyone to have a look at it. The document has been reviewed by the engineers, planners, and lawyers so hopefully it is fairly polished. Not everybody will be happy with it but he believes the committee has done a 95% job.

**Councillor Dalrymple** – Had a list of concerns but many of them had already been addressed. During the building stage, the community is going to want tremendous safeguards in place to protect the lake in regards to heavy rains and any kind of runoff. **Mr. Rogers** believes that every developer should be doing everything possible to reduce sedimentation and erosion. He assured the public that a sedimentation and erosion control plan will be included in this proposal and everything possible will be done to reduce any impact on the lake.

**Councillor Dalrymple** – Without question one of the biggest needs in this community is senior's housing. He would encourage the developer to design the development to be extremely senior friendly.

**Councillor Dalrymple** – Agrees there are traffic issues. Three years ago, HRM commissioned a wide and in depth traffic study that was presented at a number of open houses through the visioning committee. In that report there are recommendations for another access point to the community of Fall River and other recommendations to fix a number of traffic issues and bottlenecks. The community is struggling from 25 years of lack of infrastructure. The new bus route will open in two weeks but the area still suffers tremendously from a lack of municipal water.

## 5. Closing Comments

**Mr. Bone** thanked everyone for coming and expressing their comments.

## 6. Adjournment

The meeting adjourned at approximately 8:18 p.m.

# Attachment F - Conceptual Building Model







