

To: **Antigonish Planning Advisory Committee
Antigonish County Council**

From: **Planning Staff (EDPC)**

Date: **June 21, 2011**

Reference: **Application by Mr. Chris MacGillivray to enter into a Development Agreement with the Municipality of the County of Antigonish for a property on Appleseed Drive, Antigonish County (PIDs 10093342 and 10093359) to allow for the construction of a twelve (12) unit apartment building.**

Recommendation:

That Municipal Council **approve** a Development Agreement between Mr. Chris MacGillivray and the Municipality of the County of Antigonish with respect to the construction of a 12 unit apartment building on two vacant lots located on Appleseed Drive (PIDs 10093342 and 10093359).

Description	
Designation:	Residential
Zoning:	Residential Single Unit (R-1)
Identification:	10093342 and 10093359
Context Map:	Appendix 'A'
Total Lot Area:	2324.8 m ² ; 25,024 ft ²
Site Visit:	January 18, 2011

Information:

The Planning Commission received an application to enter into a development agreement from Mr. Chris MacGillivray on October 6th, 2010. The proposal involves the construction of a multiple unit residential building that will contain twelve (12) units. The two properties are located beside one another on Appleseed Drive near Highland Drive Extension and the properties are currently zoned as Single Unit Residential (R-1). The properties are presently owned by Michael and Elaine Cameron with whom Mr. MacGillivray has a purchase and sale agreement contingent on the development agreement being approved.

A development agreement provides an approach to development control which is more flexible than traditional zoning mechanisms. The nature of the agreement allows advisory and planning committees to safeguard and retain the general aesthetic of the neighbourhood as well as enforce due regard for natural environment issues such as land grading, drainage and plant life. When preparing such a document, staff will refer to the evaluation criteria contained in the Municipal Planning Strategy (MPS) and include the relevant items in the agreement.

Background:

The Planning Commission received an application to enter into a development agreement from Mr. Chris MacGillivray on October 6th, 2010. Correspondence was sent to the applicant and to

the various provincial and municipal departments as is required under the Antigonish MPS.

A site visit was completed January 18, 2011 at which time photographs were taken of the two properties. The site is located between the Lion’s Club building on Highland Drive to the north, and the dwelling located at #17 Appleseed Drive, to the south. Presently, the two properties located at PIDs # 10093342 and 10093359 are vacant.

Analysis:

Under Policy 28(a) of the Antigonish Fringe Land Use By-Law a twelve (12) unit dwelling may be considered by Development Agreement. The By-law states:

28(a) The following developments shall be permitted by development agreement only, in accordance with the *Municipal Government Act, 1998, c.18, s.1* and the Municipal Planning Strategy:

- a) Multiple unit dwellings within a residential designation with five (five) or more units according to Policy 28(e). (Amendment was approved March 21, 2006).

Part 4.1 of the development agreement ensures that the proposed development meets all the criteria for the Residential Multi-Unit (R-2) Zone. Specifically the Residential Multi-Unit (R-2) Zone requires that the minimum lot size be 10,000 feet square for the first three units of a multiunit building plus an extra 1,000 feet square for each additional unit. For a twelve unit building the lot size requirement is 19,000 feet square. Also the Minimum Lot frontage requirement is 80 feet. These requirements can only be met by the developer consolidating the two properties and therefore it is a requirement prior to any building permits being issued that the two properties be consolidated.



Figure 1: View of the two lots looking south down Appleseed Drive. Photograph Courtesy of Google Maps.

Subsection “b” of Policy 7(e) states that the height, bulk, lot coverage and appearance of any building is required to be compatible with adjacent land uses. The proposed development meets these requirements. The adjacent land uses are residential single unit buildings, one of which is used for Lion’s Club meetings and across the road is St. Andrew Junior School.

Within the proposal consideration is required to be given to building design and the provision of barriers, berms, fences, and/or landscaping as part of the residential development to minimize effects on adjacent land uses as required by Subsection “c” of Policy 7(e). Accordingly the site

plan design includes trees and vegetation that will act as visual buffers around the perimeter of the property.

The development will have a minimum of 1.5 parking spaces per unit as required in the Land Use By-law of the Antigonish Fringe Plan. For a twelve-unit dwelling at least eighteen parking spaces must be provided. The proposed development site plan shows eighteen (18) parking spaces located to the rear of the building, therefore the proposal complies with Subsection “d” of Policy 7(e) of the MPS.

Adequate open space for on-site recreational use must be provided by the developer. For each unit of the development a minimum of 4.6 m² (50 ft²) of green space must be provided, therefore a minimum of 55.7m² (600 ft²) is required on the site. The site plan shows 469m² (5048ft²) of open green space around the building.

In compliance with the policy on building height, the proposed building will be no more than three stories in height and is less than 35 feet in height.

The proposed development agreement must be consistent with Policy 28(b) of the Municipal Planning Strategy, which stipulates the Evaluation Criteria and Terms for Development. The following is a synopsis of the criteria, evaluation, agreements and conditions (See Appendix A):

Nova Scotia Transportation and Infrastructure Renewal advise that the adequacy of the provincial road network adjacent to, or leading to the development appears to be appropriate for this new proposed development.

Nova Scotia Environment stated that the Department does not object to the proposed development provided the following measures are put into the Development Agreement.

1. Erosion and Sedimentation Control measures are designed for the development by a professional engineer.
2. The Erosion and Sedimentation Control measures are put into place prior to construction.
3. Exposed soils are stabilized by such measures as covering soil stockpiles with hay/straw.
4. Water pumped or drained from the excavation must have a Suspended Solid (SS) concentration below 25 mg/l (ppm) before it crosses the lot line.

The developer must comply with these four measures to be deemed in compliance with the Environmental Monitoring and Compliance Division of Nova Scotia Environment.

The Municipality of the County of Antigonish advises that the proposal is not premature or inappropriate by reason of the adequacy of sewer and water services and that the Municipality is financially capable of absorbing the costs relating to the proposed development.

Antigonish County Recreation Department advises that the proposed development is located in relatively close proximity to a number of sport and recreation facilities, schools used for a variety of recreation activities as well as community facilities. They further report that these facilities are adequate to support the new development.

The Strait Regional School Board advises that adequate school facilities exist within relatively close proximity to service the possible increase in students resulting from future developments in the area. In fact, St. Andrew Junior School is directly across the street from the two properties where the development is being proposed.

Antigonish County Volunteer Fire Department and the Town of Antigonish Fire Department advise that they have sufficient equipment and resources in order to provide protective services in the event of an emergency. The Town of Antigonish Fire Department informs planning staff that they purchased a ladder in 2009 that could reach the top floor of a two storey building in the event of an emergency.

An evaluation of Mr. MacGillivray's proposal has determined that the proposed development meets the requirements of Policies 7(e) and 28(b) in the Municipal Planning Strategy and the requirements of all other Municipal by-laws and regulations. The development agreement will include landscaping requirements, such as a perimeter buffer of shrubs and/or small trees and parking requirements of a minimum of eighteen parking spaces for residents of the multi-unit dwelling. In addition, there is an amenity space requirement of at least six hundred square feet in area.

The two properties are currently vacant and the Antigonish Fringe Municipal Planning Strategy encourages higher density residential development close to Town and in the serviced area. The MPS permits multi-unit developments over five units by development agreement and therefore the proposed development is permitted under the Municipal Planning Strategy and the Land Use By-law.

Conclusion:

In the opinion of Planning Staff the proposed development on Appleseed Drive meets the intent of the Municipal Planning Strategy according to the requirements of Policy 7(e) and 28(b) and Policy 4-A and the applicable Land Use By-law (Appendix A). The development agreement meets the criteria of both the MPS and LUB and Mr. MacGillivray has shown planning staff designs, plans and elevations that meet the criteria for compatibility with the neighboring uses and architecture however, he is required to conform to all land use requirements, including those set out in the development agreement. The Municipality is advised to enter into a development agreement with Mr. MacGillivray to ensure that his multi-unit apartment building project exhibits due regard for the surrounding natural landscape.

Appendix A: Summary of Evaluation Criteria

Policy 7(e)	It shall be the intention of Council to consider approval of multiple unit dwellings with five (5) or more units either in one or more buildings within the Residential designation according to the development agreement provisions of the <i>Municipal Government Act</i> , 1998, c. 18, s. 1. In considering such an agreement, Council shall have regard to the following:	
a)	R-2 zone requirements for multiple unit dwellings;	Complies (See Staff Report)
b)	the height, bulk, lot coverage and appearance of any building are compatible with adjacent land uses;	Complies (See Staff Report)
c)	consideration is given to building design and the provision of barriers, berms, fences, and/or landscaping as part of the residential development to minimize effects on adjacent land uses;	Complies (See site plan)
d)	parking areas required are of sufficient size to satisfy the needs of the particular development; that they are well designed and properly related to the building, landscaped areas and adjacent public streets;	Complies (See site plan)
e)	there is adequate on-site recreational open space suitable in extent and design to the nature of the development;	Complies (See site plan)
f)	building not over three stories in height; and	Complies (See elevation)
g)	the proposal is consistent with the evaluation criteria for development agreements, Policy 28(b).	Complies
Policy 28(b)	In considering development agreements, in addition to all other criteria set out in various policies of this planning strategy, Council shall have regard for the following matters:	Complies
(a)	The proposal is in conformance with the intents of this Strategy and with the requirements of all other Municipal by-laws and regulations;	(See Staff Report)
(b)	The proposal is not premature or inappropriate by reason of:	
i)	the financial capability of the Municipality to absorb any costs relating to the development;	Complies (See Staff Report)
ii)	the adequacy of sewer and water services to support the proposed development;	Complies (See Staff Report)
iii)	the adequacy and proximity of school, recreation and other community facilities;	Complies (See Staff Report)
iv)	the adequacy of road networks adjacent to, or leading to the development;	Complies (See Staff Report)
v)	the potential for the contamination of watercourses or the creation of erosion or sedimentation; and	Complies (See letter from the Dept. of Environment Oct. 29, 2010)
c)	The potential for damage to or destruction of historical buildings and sites.	Complies

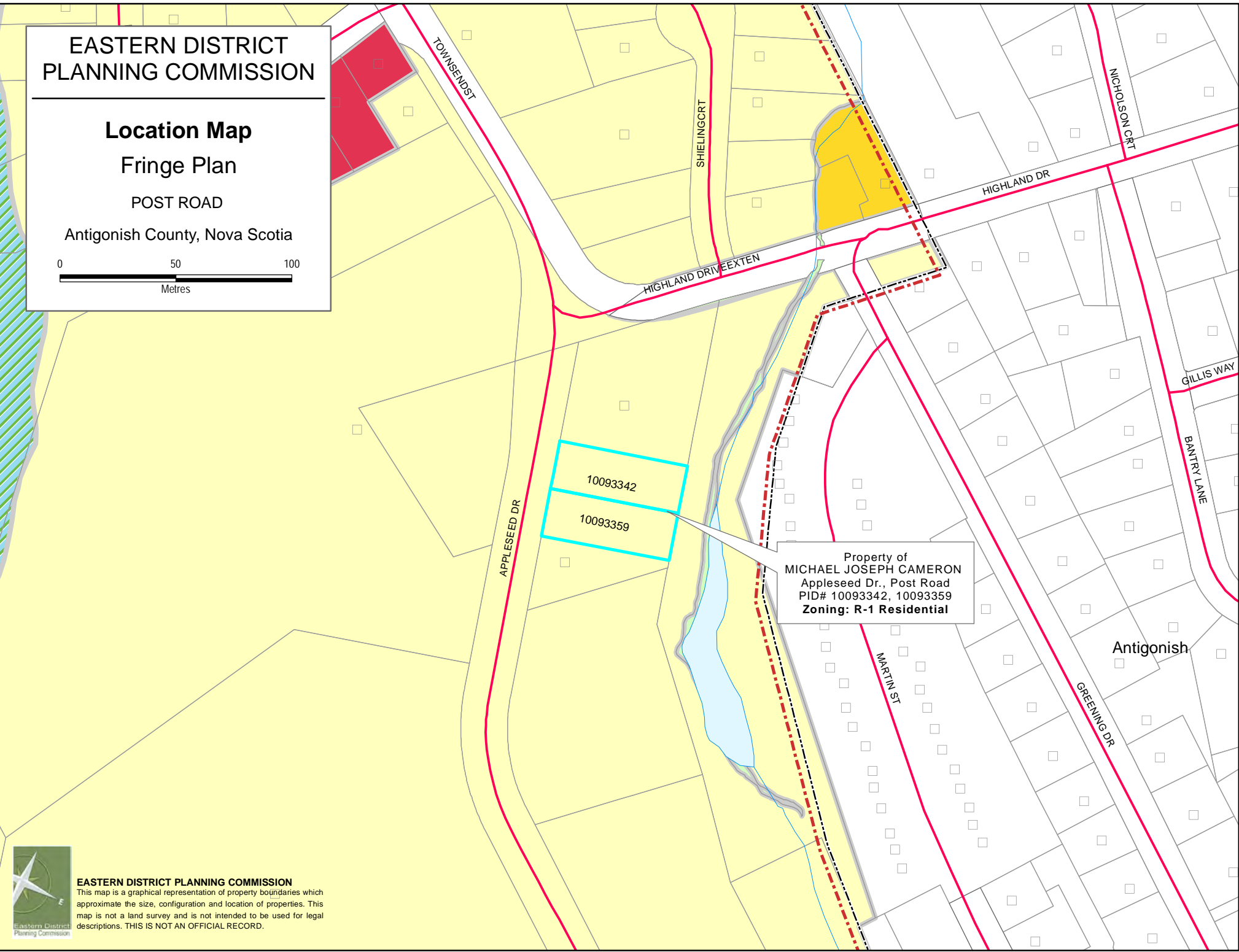
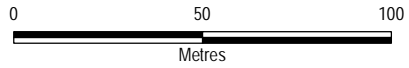
**EASTERN DISTRICT
PLANNING COMMISSION**

Location Map

Fringe Plan

POST ROAD

Antigonish County, Nova Scotia



Property of
MICHAEL JOSEPH CAMERON
Applesseed Dr., Post Road
PID# 10093342, 10093359
Zoning: R-1 Residential

Antigonish



EASTERN DISTRICT PLANNING COMMISSION
This map is a graphical representation of property boundaries which approximate the size, configuration and location of properties. This map is not a land survey and is not intended to be used for legal descriptions. THIS IS NOT AN OFFICIAL RECORD.

Appendix B: DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT made this _____ day of, _____ AD 2011,

BETWEEN

CHRIS MACGILLIVRAY, of 51 Brookland Street Antigonish, Nova Scotia, B2G 1V8 (hereinafter called the “Developer”).

OF THE FIRST PART

-and-

MUNICIPALITY OF THE COUNTY OF ANTIGONISH, a body corporate, in the County of Antigonish, Province of Nova Scotia (hereinafter call the “Municipality”).

OF THE SECOND PART

WHEREAS the Developer has good title to lands known as PID 10093342 and 10093359 on Applesseed Drive in the Municipality of the County of Antigonish, Nova Scotia, and which said lands (hereinafter called the “Property”) are more particularly described in Schedule “A” of this Agreement;

AND WHEREAS pursuant to Part (2), subsection 10(a) of the Antigonish Fringe Land Use By-law, the Developer has requested permission to erect a twelve- (12) unit apartment building on the Property;

WITNESS that in consideration of the sum of One Dollar (\$1.00) now paid by the Developer to the Municipality (the receipt of which is hereby acknowledged) the request to change the use of the Property is agreed upon by the Developer and the Municipality subject to the following:

PART 1: DEFINITIONS

For the purpose of this Agreement, all other words shall carry their customary meaning except those defined under PART 4-A, subsection 1(a) of the Antigonish Fringe Land Use By-law.

PART 2: GENERAL REQUIREMENTS

- 2.1 Except as otherwise stipulated by this Agreement, the development of the Property shall comply with the Antigonish County Fringe Land Use By-law;
- 2.2 Subject to the provisions of this Agreement, the Developer shall be bound by all By-laws and regulations of the Municipality as well as by any applicable statutes and regulations of the Province of Nova Scotia;
- 2.3 Notwithstanding Section 2.2, where the provisions of this Agreement conflict with those of any other provincial or federal regulations, by-laws or codes, the more stringent requirements shall apply;
- 2.4 The Developer shall assume full responsibility for meeting all obligations and financial liabilities required to satisfy all federal, provincial or municipal regulations, by-laws or codes in force at the present time, or at any time in the future;

- 2.5 Further to Section 2.2, the Developer shall receive any necessary approvals from the Fire Marshall’s Office and shall meet all the “Barrier Free” or “Handicap Access” provisions of the National Building Code.
- 2.6 All driveway and parking lot finishing, fencing and landscaping shall be completed prior to the apartment building opening for occupancy.

PART 3: PHASING OF DEVELOPMENT:

- 3.1 The Developer shall employ the services of an Engineer to design a site plan for the remediation of water, sewer and drainage concerns prior to the issuance of permits.
- 3.2 Prior to the issuance of permits, requirements of the Antigonish County Public Works Department will be satisfied as follows:
 - (a) The Developer is responsible for the installation of a new sewer line from the main sanitary line to the new building and that it be separate from any existing sewer line;
 - (b) The Developer is responsible for the cost and installation of a new water pipe which is at least two inches in diameter between his new building and the main water line at the center of Appleseed Drive.
- 3.3 The following requirements of the Nova Scotia Department of Environment must be met.
 - (a) Erosion and Sedimentation Control measures designed for the development by a professional engineer must be put into place prior to construction.
 - (b) Exposed soils must be stabilized by such measures as covering soil stockpiles with hay/straw.
 - (c) Any water pumped or drained from the excavation must have a Suspended Solid (SS) concentration below 25 mg/l (ppm) before it crosses a lot line.

PART 4: DEVELOPMENT OF THE PROPERTY:

4.1 USES PERMITTED

This Agreement shall permit the construction of a three-storey, twelve (12) unit apartment building as shown on the site plan in Schedule “B” and in accordance with the following requirements:

	Serviced (Water and Sewer)
Minimum Lot Frontage	80ft. (24.4m)
Minimum Lot Area	10,000ft.2 (929m2) for first 3 units; 1,000ft2 (92.9m2) for each additional unit.
Minimum Front Yard	25ft. (7.6m)
Minimum Rear Yard	25ft. (7.6m)
Minimum Side Yard	4ft. (1.2m)
Maximum Height	35ft. (10.7m)

4.2 BUILDING AND SITE REQUIREMENTS

4.2.1 Special Design Requirements

Exterior cladding of the building shall be compatible with other types of exterior treatment in the neighbourhood and as shown on the elevations attached to this development agreement.

4.2.2 Parking

- (a) 18 regular parking spaces (1½ parking spaces for each dwelling unit), including four (4) handicapped spaces, shall be provided as shown in the Site Plan (Schedule “B”) as required by the Building Code;
- (b) the parking area shall meet all other requirements of Section 21 of the Antigonish County Fringe Land Use By-law;
- (c) each parking space shall be clearly demarcated;
- (d) the parking area shall be maintained with asphalt;
- (e) lights used for illumination of the parking lot shall be arranged to divert the light away from the street, adjacent lots and buildings.

4.2.3 Site Layout

- (a) The building shall be placed on the site as shown on the Site Plan (Schedule “B”).
- (b) The grounds shall be maintained as follows:
 - i) site remediation and drainage plan in accordance with an Engineer’s survey before construction shall begin
 - ii) a 20-foot treed buffer at the rear lot line
 - iii) maintaining existing trees on the site including along the side lot lines, except those on the site of the future building footprint
 - iv) planting hardwood trees around the parking area
 - v) maintaining landscaped areas and all sides of buildings free from litter and debris
 - vi) driveway and parking lot finishing to be of a porous paving material to enable natural water drainage and to alleviate water collection problems at that section of Appleseed Drive.

4.2.4 Recreational Space

Green space as shown in Schedule “A” shall be maintained for passive recreation.

4.2.5 Lighting

Lighting of the parking area shall be provided. Such lighting shall provide sufficient light for parking spaces and walkways but shall not be directed in such a way that neighbouring properties or roadways would be affected.

4.3 OPERATION AND MAINTENANCE OF PROPERTY

4.3.1 The Developer shall provide garbage receptacles which shall be

- (a) emptied on a weekly basis, and
- (b) screened or fenced to ensure a neat and clean appearance
- (c) located as shown behind building site on Appendix "A".


PART 5: IMPLEMENTATION

- 5.1 This Agreement shall be binding upon the Developer's assigns, mortgages, lessees, successors and occupiers of the Property.
- 5.2 This Agreement shall be filed by the Municipality in the Registry of Deeds at Antigonish, Nova Scotia and shall form a charge or encumbrance upon the Property.
- 5.3 The costs of recording and filing all documents related to this Agreement shall be paid by the Developer.
- 5.4 The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not prejudice the validity or enforcement of any other provisions.
- 5.5 Upon breach by the Developer of any of the terms or conditions of this Agreement, the Municipality may, after thirty (30) days notice in writing to the Developer of the breach, enter and perform any of the terms and conditions of this Agreement. It is agreed that all reasonable expenses arising out of the entry or the performance of the terms and conditions may be recovered from the Developer by direct suit and shall form a charge on the Property.
- 5.6 This agreement may be discharged at the discretion of the Municipality upon the completion of the project and the satisfactory fulfillment of the terms of the agreement.
- 5.7 This agreement or portions of it may be discharged at the discretion of the Municipality with or without the concurrence of the property owner if construction has not commenced within two years and/or construction has not been completed within three years of the signing of the agreement.

Schedule "A" – Site Plan

1. Site plan for Proposed 12 Unit Development on Appleseed Drive.



 HJS CONSULTANTS LTD. LAND SURVEYOR'S & ENGINEERS 3A VINCENT'S WAY ANTIGONISH, NS, B2G 2X3 (902) 863-1465 www.hjsconsultants.com	SITE PLAN 12 UNIT APARTMENT BUILDING C/O CHRIS MACGILLIVRAY			SCALE:	1:500	PROJECT: 11-0021-30A
		0	ISSUED FOR REVIEW MAR 8, 2011	GS		
		REV.	DESCRIPTION	BY		



FRONT ELEVATION



REAR ELEVATION



LEFT ELEVATION