



THE MUNICIPALITY OF THE DISTRICT OF EAST HANTS

Development Agreement

DRAFT

Between:

Magnolia Continuing Care Holdings Limited, also known as 3225210 Nova Scotia Limited

And

Municipal Council for the Municipality of the District of East Hants, Nova Scotia

To permit the development of a nursing home and an assisted living facility on lands located in Enfield.

Original agreement approved by Municipal Council on the _____ day of _____ 2023.

Signed and entered into this _____ day of _____, 2023.

This DEVELOPMENT AGREEMENT made this ____ day of _____, 2023.

BETWEEN:

Magnolia Continuing Care Holdings Limited, also known as 3225210 Nova Scotia Limited of Dartmouth, Nova Scotia

(hereinafter called the “**Developer**”)

OF THE FIRST PART;

- and -

MUNICIPALITY OF THE DISTRICT OF EAST HANTS, a body corporate pursuant to the *Municipal Government Act* (SNS 1998, c. 18), having its chief place of business at Elmsdale, in the District of East Hants, Nova Scotia,

(hereinafter called the “**Municipality**”)

OF THE SECOND PART.

WHEREAS the **Developer** is the registered owner of lands known as 410 Highway 2, Enfield (PID 45357555), and 416 Highway 2, Enfield (PID 45151909) Enfield, more particularly described in Schedule “A” of this agreement (the “**Property**”);

AND WHEREAS the **Developer** has requested that they be permitted to develop a nursing home and an assisted living facility, in the Two Dwelling Unit Residential (R2) Zone on the **Property** by entering into a development agreement with the **Municipality** pursuant to the *Municipal Government Act*, and pursuant to the *Municipality of East Hants Municipal Planning Strategy Policies OS29, IM27, and IM28* so that the **Developer** may develop and utilize the **Property** in a manner not otherwise permitted by the Land Use Bylaw.

AND WHEREAS the Council of the **Municipality** (the “**Council**”), at its meeting held the ____ day of _____, 2023, approved the **Developer’s** application to enter into a development agreement to permit a nursing home and an assisted living facility in Two Dwelling Unit Residential (R2) Zone (the “**Development**”), subject to the registered owners of the **Property** entering into this agreement.

NOW THEREFORE, THIS AGREEMENT WITNESSETH THAT in consideration of the covenants, promises and agreements contained herein, the parties hereto agree as follows:

1 LAND USE

- (a) The use of the Property permitted by this Agreement, subject to its terms and as generally illustrated on Schedule "B", shall be a two (2) storey nursing home containing seventy one (71) beds as well as ancillary facilities and a four (4) storey assisted living facility containing seventy (70) units as well as ancillary facilities.
- (b) Temporary Housing may be provided in the assisted living facility for staff of the assisted living facility or the nursing home.
- (c) Except where specifically stated otherwise in this agreement, all provisions of the Land Use Bylaw of the Municipality of the District of East Hants, approved by Municipal Council on July 27, 2016 as amended, shall apply to this development.

2 PLANS

- (a) The Property shall be developed and used generally in accordance with the site plan attached to this agreement as Schedule "B" and with reference to this Schedule:
 - i. The nursing home and assisted living facility shall be generally located and constructed in conformity with the yard setbacks as indicated on the site plan attached as Schedule "B" of this agreement.
- (b) The Developer shall construct and maintain the parking areas generally as shown on the site plan. The outdoor parking area shall conform to the following requirements:
 - i. the Developer shall construct the parking area generally in conformity with the site plan hereto attached as Schedule "B".
 - ii. the limits of the parking area shall be defined by a fence, curb, or other suitable obstruction designed to provide a neat appearance;
 - iii. the parking area shall be properly illuminated for safe and effective circulation of both automobile and pedestrian traffic at night and such illumination shall be directed away from adjoining properties and adjacent streets;
 - iv. the width of the driveway to the parking area shall be a minimum of 6 m;
 - v. individual parking stalls shall be a minimum dimension of 2.8 m x 5.6 m exclusive of driveways or aisles;
 - vi. The parking area shall be paved with hot milled asphaltic concrete (HMAC) or portland cement concrete (PCC), paving stones, or some other suitable paving material.
- (c) The parking area to the south east of the assisted living facility shall be buffered from the adjacent residential properties located on Highway 2, with a minimum 1.8 m high opaque wooden fence or solid wall. This area shall also be buffered with existing trees and/or an area of evergreen trees and evergreen and/or densely twigged deciduous shrubs.
- (d) The grounds exclusive of the driveway, walkways, and building shall be landscaped with a combination of lawn, shrubs, trees, and other vegetation. All landscaping, required or otherwise, shall be regularly maintained.
- (e) Outdoor refuse containers shall be permitted provided they are wholly enclosed by landscaping and/or opaque fencing of sufficient height and design to screen the storage area or refuse containers from public view or from abutting residential uses.
- (f) One ground sign identifying the name of the facility shall be permitted subject to the following requirements:
 - i. the sign does not exceed 2 square metres in area;
 - ii. the sign shall have a maximum height of 4 metres; and
 - iii. no portion of the sign (base, post, frame, or face) is located within 2.4 metres of any public right-of-way or common property line.
- (g) Outdoor recreation amenity space and trails shall be provided generally as shown in Schedule "B" and shall conform to the following requirements:

- ii. A formal garden area with plantings and walkways shall be provided adjacent to the nursing home as indicated in Schedule "B".
 - iii. An additional amenity area shall be provided in proximity to the assisted living facility. This space must be usable space and shall be landscaped to create an attractive outdoor recreation space for the amenity of the residents on the lot and offer recreational facilities appropriate to the tenant demographic.
 - iv. A Nature Trail shall be provided as shown in Schedule "B". The surface of the trail shall be suitable for residents using walkers and wheel chairs.
- (h) The Development Officer may approve amendments to the parking layout to enable access and turning of emergency service and waste collection vehicles. The number of parking stalls shall not be reduced.
 - (i) The four storey building shall be developed generally in accordance with the Rendering Drawing of Assisted Living Facility attached to this agreement as Schedule "C".

3 SERVICING

- (a) The Developer agrees that the disposal of all refuse collected from the development is the responsibility of the Developer;
- (b) The Developer agrees that snow removal and de-icing the public parking area and walkways is the responsibility of the Developer and not the Municipality. Snow removal shall occur as necessary so as to keep driveways, walkways and parking areas clear at all times during winter season.
- (c) The Development shall be connected, at the Developer's expense, to the Municipality's water and sewer system within the Highway No. 2 right-of-way or at another point on the system subject to the approval of the Municipal Engineer.
- (d) The Developer shall be responsible for paying all infrastructure and connection fees associated with the Development; and
- (e) The Developer agrees that the Municipality does not warrant that the municipal water system can provide adequate fire flow or sufficient pressure for a sprinkler system and that as the Developer, they are responsible for carrying out their own hydrant testing.

4 DEVELOPMENT PERMIT

- (a) This development agreement shall be administered by the Development Officer as appointed by the Council of the Municipality of East Hants.
- (b) The development described in this agreement shall not be commenced until the Development Officer has issued a development permit. A development permit for the land use described in Section 1 of this agreement shall not be issued until the Development Officer is satisfied that the detailed plans are in conformance with the site plan attached as Schedule "B" and the requirements for the components in Schedule "B". In addition, the Development Officer shall not issue a development permit until:
 - i. The Developer has submitted site plans in conformance with the terms and conditions of this development agreement (Schedule "B"); and
 - ii. Payment for all required permit fees, registration of the document at the Registry of Deeds, and costs associated with advertising and processing the application have been received by the Municipality's Planning and Development Department; and
 - iii. The Nova Scotia Department of Public Works (NSPW) has granted positive recommendation on all transportation issues within their responsibility and has given their approval if any is required; and
 - iv. Nova Scotia Department of the Environment and Climate Change has granted positive recommendation on all environmental issues within their responsibility and has given their approval if any is required; and
 - v. Servicing details has been submitted and the Municipality's Department of Infrastructure and Operations and approval has been granted for the Developer to

connect into Municipal sewer and water services and the Developer has otherwise satisfied that Department's requirements.

- vi. The Municipality's Department of Infrastructure and Operations has confirmed that sufficient water and wastewater capacity exists to service the development.
- vii. A stormwater management plan prepared by a professional engineer has been submitted in accordance with the 'Municipal Standards'. The management of the stormwater shall be carried out in accordance with the submitted stormwater management plan.
- viii. A lot grading plan pursuant to the Municipality's Lot Grading By-law has been submitted.
- iv. A Truck Turning Template shall be submitted that demonstrates that the driveway and parking area for the assisted living facility is laid out and designed to allow for access and turning of emergency service and waste collection vehicles.
- v. A registered easement has been secured for the benefit of PID 45357555. The easement shall extend from the "Property" boundary with PID 45151909 to the further edge of the driveway, to include the full width of the driveway. The easement shall extend from Highway 2 to the northern boundary of the "Property" where the driveway enters the "Property". The driveway is identified on the site plan in Schedule "B". The easement is to provide vehicular access to the "Property" and parking which is located adjacent to but outside the "Property".

5 IMPLEMENTATION

- (a) Upon breach of this agreement, the Municipality may proceed in accordance with Section 264 of the Municipal Government Act.
- (b) Subject to the provisions of this agreement, the Developer shall be bound, unless specifically stated otherwise in this agreement, by all Bylaws and regulations of the Municipality as well as to any applicable statutes, policies, and regulations of the Province of Nova Scotia or the Government of Canada.
- (c) This agreement shall run with the land and be binding upon the Developer, its lessees, and the occupiers of the land.
- (d) Except as otherwise provided for herein, the subdivision of the Property shall comply with the requirements of the Subdivision Bylaw, as may be amended from time to time.
- (e) This agreement shall be filed by the Municipality in the Registry of Deeds at Windsor, Nova Scotia, and shall form a charge or encumbrance upon the property as described in Schedule "A" attached hereto.
- (f) The costs of recording and filing all documents in connection with the agreement shall be paid by the Developer.
- (g) 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.
- (h) The Developer shall at all times indemnify and save harmless the Municipality from and against all claims, demands, losses, costs, damages, actions, suits or other proceedings by whomever made, brought or prosecuted to the extent that the foregoing are based upon, occasioned by or attributable to anything done or omitted by the Developer or his servants or his agents or his employees in the fulfillment of any of his obligations under this Agreement.
- (i) Upon completion of the Development, or after three (3) years from the date of approval of this Agreement, whichever time period is less, Council may review this agreement, in whole or in part, and may:
 - i. retain the Agreement in its present form
 - ii. discharge the Agreement on the condition that for those portions of the development that are deemed complete by the Council, the Developer's rights hereunder are preserved and Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use Bylaw.

6 TIME LIMITS

- (a) The parties shall enter into this agreement within one (1) year of Council's approval to enter into this agreement.
- (b) Pursuant to the terms and conditions of this agreement, the Developer shall apply for a development permit to construct the assisted living facility within two (2) years of the parties entering into this development agreement, or the agreement for the property identified as PID 45357555 may be terminated and the existing zone and all provisions of the Land Use By-law shall apply for this property.
- (c) The development shall be made consistent with all terms and conditions of this agreement and all features of the site plan attached as Schedule "B" no later than two (2) years after the development permit has been issued for the assisted living facility, otherwise the development agreement may be terminated and the existing zone and all provisions of the Land Use By-law shall apply.

7 UNSUBSTANTIAL AMENDMENTS

- (a) Any amendment to this agreement, whether substantive or otherwise, must be approved by both parties in writing:
- (b) Any unsubstantial amendment to either the terms of this agreement or to any Schedules shall be subject to the amendment procedures set out in the Municipal Government Act.
- (c) Amendments which are considered unsubstantial are the following:
 - i. A written request to have the time limits identified in Section 6 of this agreement extended by a period to be decided by Council.
 - ii. Changes to the site plan that are necessary to accommodate features that are subject to approval or authorization by other authorities such as, but not limited to, the Nova Scotia Department of Public Works and the Nova Scotia Department of the Environment and Climate Change
 - iii. Changes to the nursing home or assisted living facility required in order to comply with any by-law or building code requirements.
 - iv. Changes to the site plan to allow for the locating of accessory utility structures and any accessory fuel storage tanks. Such structures shall be located such that they do not interfere with elements required by the Agreement, such as parking.
 - v. A written request to expand either the nursing home or assisted living facility up to 10% of the floor area.
 - vi. Changes to the parking lot layout and increase in parking area.
 - vii. Changes to the external elevation design of the four storey assisted living facility building which are not considered 'generally in accordance'.

8 DISCHARGE OF PREVIOUS DEVELOPMENT AGREEMENT

- (a) Both parties hereby agree that the development agreement referred to below is discharged upon registration of this agreement.

Original Agreement Signed and Entered into November 13, 2008 and Recorded at the Land Registry Office for Hants County on December 3, 2008, as Document Number 92294314.

IN WITNESS WHEREOF the parties hereto for themselves, their successors and assigns have hereunto set their hands and seals as of the day and year first above written.

SIGNED, SEALED AND DELIVERED
in the presence of:

DEVELOPER

Witness

Magnolia Continuing Care Holdings Limited

MUNICIPALITY OF EAST HANTS

Witness

Kim Ramsay
Chief Administrative Officer & Municipal Clerk

Province of Nova Scotia, County of Hants.

On this _____ day of _____, 2023, before me the, subscriber personally came _____ and _____ appeared _____, a subscribing witness to the foregoing agreement, who having been by me duly sworn, made oath and said that the Developer, one of the parties thereto, signed, sealed and delivered the same in his/her presence.

Province of Nova Scotia, County of Hants.

On this _____ day of _____, 2023, before me, the subscriber personally came and appeared _____, a subscribing witness to the foregoing agreement, who having been by me duly sworn, made oath and said that Kim Ramsay, CAO & Municipal Clerk, signing authority for the Municipality of East Hants, one of the parties thereto, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme
Court of Nova Scotia

A Commissioner of the Supreme
Court of Nova Scotia

Schedule A

Deed Description of Property

Parcel Description for PID 45357555

Registration County: HANTS COUNTY
Street/Place Name: NO 2 HIGHWAY /ENFIELD
Title of Plan: PLAN OF SURVEY OF LOTS 1B & 2Z, BEING A S/D OF PARCEL Z FROM LOT 1 AND CONSOLIDATING PARCEL Z WITH LOT 2, LANDS OF 3225210 NOVA SCOTIA LTD, NO 2 HWY, ENFIELD APP LOTS 1B & 2Z
Designation of Parcel on Plan: LOT 2Z
Registration Number of Plan: 92539874
Registration Date of Plan: 2009-01-12 10:31:17

Parcel Description for PID 45151909

Registration County: HANTS COUNTY
Street/Place Name: NO 2 HIGHWAY /ENFIELD
Title of Plan: PLAN OF SURVEY OF LOTS 1B & 2Z, BEING A S/D OF PARCEL Z FROM LOT 1 AND CONSOLIDATING PARCEL Z WITH LOT 2, LANDS OF 3225210 NOVA SCOTIA LTD, NO 2 HWY, ENFIELD APP LOTS 1B & 2Z
Designation of Parcel on Plan: LOT 1B
Registration Number of Plan: 92539874
Registration Date of Plan: 2009-01-12 10:31:17

SUBJECT TO a Development Agreement in favour of the Municipality of the District of East Hants as registered in the Hants Land Registration Office on December 3, 2008 as Document No. 92294314.

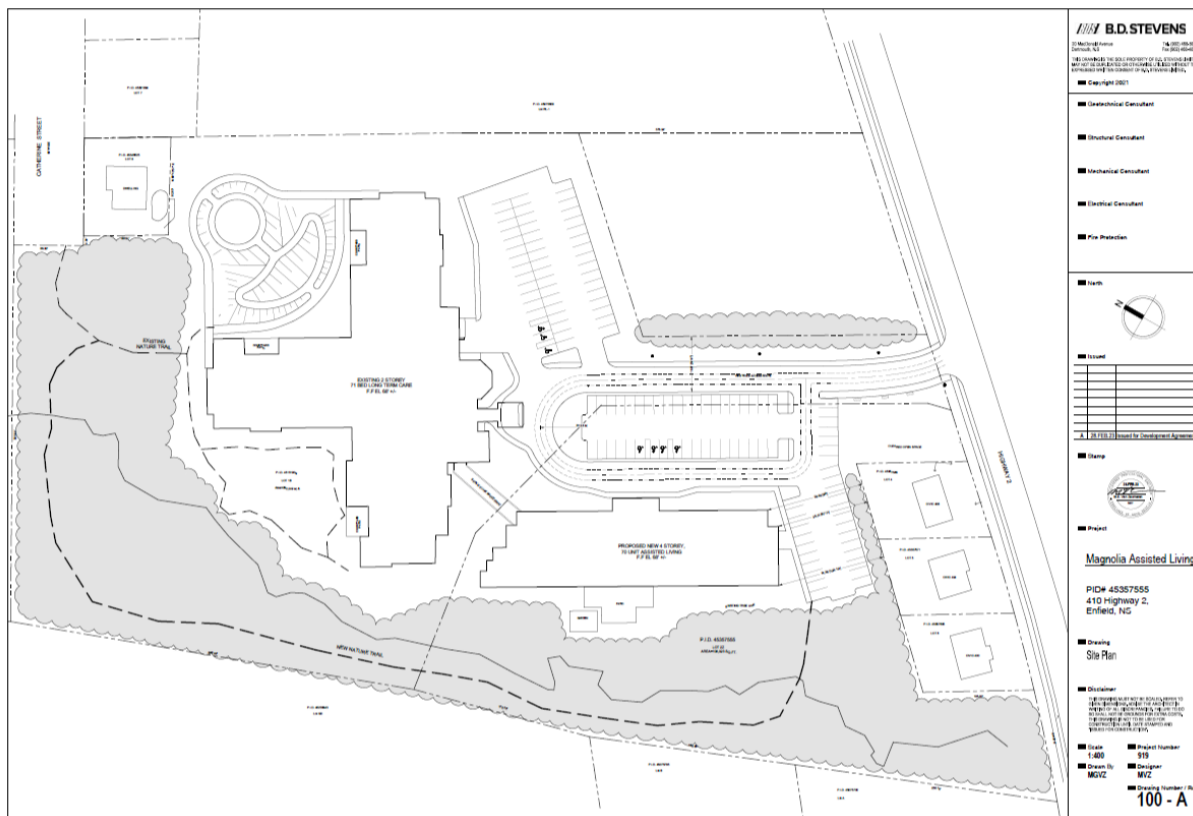
SUBJECT TO an Easement in favour of Bell Aliant Regional Communications Inc. as conveyed in a Grant of Easement registered in the Hants County Land Registration Office on November 10, 2009 as Document No. 94693604

**Development Agreement:
Magnolia Continuing Care Holdings Limited and the
Municipality of East Hants**

Schedule B

Site Plan

To be added – Full version of Drawing # 100 – A



Schedule C

Rendering Drawing of Assisted Living Facility

