

# ROTHESAY

PUBLIC HEARING AGENDA

Rothesay Town Hall

Commencing at 7:00 p.m.

**Monday, August 8, 2016**



**PUBLIC HEARING                    104 HAMPTON ROAD (PID 30246979)**

- 1.    CALL TO ORDER**    Instructions  
Public Hearing Policy (October 2014)  
Development Process summary (August 2016)

- 2.    PUBLIC HEARING**  
**Documentation**  
13 July 2016                    1<sup>st</sup> Section 68 advertisement  
2 August 2016                2<sup>nd</sup> Section 68 advertisement  
3 August 2016                Recommendation from Planning Advisory Committee/Town Clerk  
*(Council Open Session Item 9.1)*  
**DRAFT**  
By-law 2-10-26 *(amended)*  
Development Agreement *(amended)*  
27 July 2016                  Staff Report 104 Hampton Road *(original)*

**Appearances:**                **Brett Taylor, Developer** (Presentation)  
**Brian White, Director of Planning/Development Services**

**Comments/Apearances:**    *[none received]*

- 3.    ADJOURNMENT**

# ROTHESAY

## Policy

Topic:	Public Hearings
Application:	Rothsay Council and Staff

Date Prepared 1/10/01

Date Adopted by Council 9/10/01

Date Amended 09/2009

10/2014

Mayor:

ACTING Town Manager:

*[Signature]*

B.W.

### BACKGROUND

The Community Planning Act, R.S.N.B. (1973), Chapter C-12 and amendments thereto, provides the procedure to be followed for Public Presentations (Section 25) and Public Hearings (Section 68), copies of which are attached hereto and identified as Schedule "A".

There is no provision within the Community Planning Act, supra for a deadline to accept written objections before the Public Hearing. Section 68(1) indicates the second required advertisement shall be no less than four (4) days prior to the date of the Public Hearing. It has been the practice of the Clerk's office to indicate in the advertisement written objections will be received until 4:00 p.m. the Thursday preceding the Public Hearing. However, the Council agenda deadline is 12:00 p.m. the Wednesday preceding the meeting, which occasionally causes confusion on the submission deadlines.

During the process, Council acts in a quasi-judicial setting. There is ample opportunity throughout the process for the public to express their views. Once the Public Hearing has been held, Council makes its decision based on the information received up to the date of the Public Hearing. Any information received subsequent to the hearing should not be taken into consideration in the decision-making process. In a legal context, this would be the same as a judge receiving additional information once a trial is over but before making his decision.

### POLICY:

This policy will be followed for all Public Hearings scheduled by Council, unless otherwise stated in provincial legislation. Advertisements shall be placed in the newspaper in accordance with Section 68(1) of the Community Planning Act, supra and shall indicate written objections will be received until 12:00 p.m. on the Wednesday preceding the Public Hearing.

Documentation received by the Town Clerk after 12:00 p.m. on the Wednesday preceding the Public Hearing will be distributed to Council members at the Public Hearing, immediately prior to the "Call to Order" of the Hearing. It shall be left to the discretion of Council to receive and/or consider the subsequent documentation received. In accordance with the Community Planning Act, supra Section 68(4) any person wishing to speak may do so at the Public Hearing.

Following the close of the Public Hearing, no further documentation or comments from the public will be received for consideration by Council, unless so requested by Council. Council members should disregard any information (email/correspondence/telephone) not received through the Town Clerk's office. Individuals submitting information directly to Council members (email/letters/phone calls) should be advised to contact the Town Clerk or Town Manager.

In accordance with the laws of natural justice, those Council members who were not in attendance at the public hearing shall be precluded from voting on the subject matter of the hearing.

The Public Hearing policy adopted by Council on October 9, 2001 (amended September 14, 2009) is hereby amended.

SCHEDULE A  
Public Hearing Policy

Excerpts from the Community Planning Act, R.S.N.B. (1973), Chapter C-12 and amendments thereto:

**25(1)** Before complying with the requirements of section 68 with respect to a municipal plan, a council shall publish a notice in a newspaper circulated in the municipality at least ten, and no more than fourteen, days prior to the day mentioned in paragraph (b), stating

- (a) the intention of the council to adopt a municipal plan;
- (b) the day and place for a public presentation by the council of the proposed plan;
- (c) that objections to the proposed plan may be made to the council within thirty days of the day of the public presentation.

**25(2)** Where a notice is published under subsection (1), any person may submit to the council written objections to the proposed municipal plan within the period mentioned in that subsection.

**68(1)** With respect to a by-law under this Act other than a by-law mentioned in paragraph 67(1)(a), the council shall

- (a) by resolution, fix a day and place for the consideration of objections to the proposed by-law, and
- (b) subject to subsection (7),
  - (i) if a daily newspaper is circulated in the municipality, publish twice a notice in the form described in subsection (2) of its intention of considering the enacting of the by-law, the first of such notices to be published not less than twenty-one and not more than thirty days before the day fixed pursuant to paragraph (a), and the second not less than four days and not more than seven days before such day, or
  - (ii) if a weekly newspaper is circulated in the municipality, publish twice a notice in the form described in subsection (2) of its intention of considering the enacting of the by-law, the first of such notices to be published not less than twenty-one and not more than thirty days before the day fixed pursuant to paragraph (a), and the second not less than four days and not more than eleven days before such day.

**68(2)** A notice under paragraph (1)(b)

- (a) shall set forth a description of the area affected by the by-law, which shall where feasible, in the case of a zoning by-law or zoning provisions in a rural plan under subsection 27.2(1), refer to street names and civic numbers;
- (b) shall state a place where and the hours during which the by-law may be inspected by an interested person, and the time and place set by the council for the consideration of written objections to the by-law;
- (c) shall set forth the person to whom written objections may be sent; and
- (d) may, in the case of an amendment or repeal, state briefly the reasons for it or an explanation thereof.

**68(3)** Where a notice has been published under paragraph (1)(b) in respect of a proposed by-law, the council shall

- (a) make suitable provision for inspection of the by-law by the public at the time and place set out in the notice, and
- (b) before enacting the by-law, hear and consider written objections to it.

**68(4)** Any person who wishes to speak for or against written objections is entitled to be heard at the time and place fixed pursuant to subsection (1) for consideration of such objections.

**68(5)** Where, subsequent to the publishing of a notice under paragraph (1)(b), the council substantially amends the proposed by-law, the provisions of this section apply *mutatis mutandis* to the amendment.

**68(6)** The council is not required to vote on the by-law on the day fixed under subsection (1) for the consideration of objections to it, but the by-law shall not become valid unless, within six months after the day that the first notice was published under subsection (1), it is

- (a) enacted, and
- (b) except a zoning by-law, subdivision by-law, building by-law, deferred widening by-law, controlled access street by-law or amendment to the zoning provisions in a rural plan under subsection 27.2(1), submitted for the approval of the Minister.

**68(7)** Where it is proposed to amend a zoning by-law or a rural plan under subsection 27.2(1) for the re-zoning of an area of land, the council is not required to publish a second notice under paragraph (1)(b) if

- (a) the owners of land within the area and within one hundred metres thereof, other than a person applying for the re-zoning, are advised in writing of the proposed amendment, or
- (b) a notice of the proposed amendment is posted in a prominent place on the property proposed to be re-zoned.



# ROTHESAY MEMORANDUM



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TO : Mayor Grant and Rothesay Council  
FROM : Town Clerk Banks  
DATE : 4 August 2016  
RE : Zoning By-law amendment Process

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The following summary and attached flow chart is being provided to give a brief overview of the Zoning By-law Amendment Process:

**1. Planning Advisory Committee (PAC) reviews application and provides written views to Council**

- As per section 66 of the Community Planning Act, Council is required to request written views of the PAC on the proposed by-laws before enacting amendments
- Planning staff prepare a report of the proposed amendments, with recommendations for PAC's consideration
- PAC meets the 1st Monday of every month to consider planning applications.

**2. Council conducts a public hearing to consider objections to by-law amendment(s)**

- All rezoning applications are subject to a public hearing before Council
- The hearing is advertised between 21- 30 days and 4-6 days before the scheduled hearing date
- Owners of all properties located within 100 metres of the subject property are notified of the public hearing by regular mail
- The purpose of the hearing is to consider any written objections submitted by members of the public. Any person may submit an objection and/or speak at the hearing
- Applicants also have the opportunity to present a summary of their proposal, and to address any concerns raised by objectors at the public hearing
- The public hearing is the last opportunity for Council to receive input from the applicant and the public before making a final decision on the bylaw. Once the public hearing has concluded, Council is not permitted to receive or consider any further representations on the bylaw unless another public hearing is held or additional information is requested from Town staff

**3. Council's decision to enact, deny or defer the by-law amendment(s)**

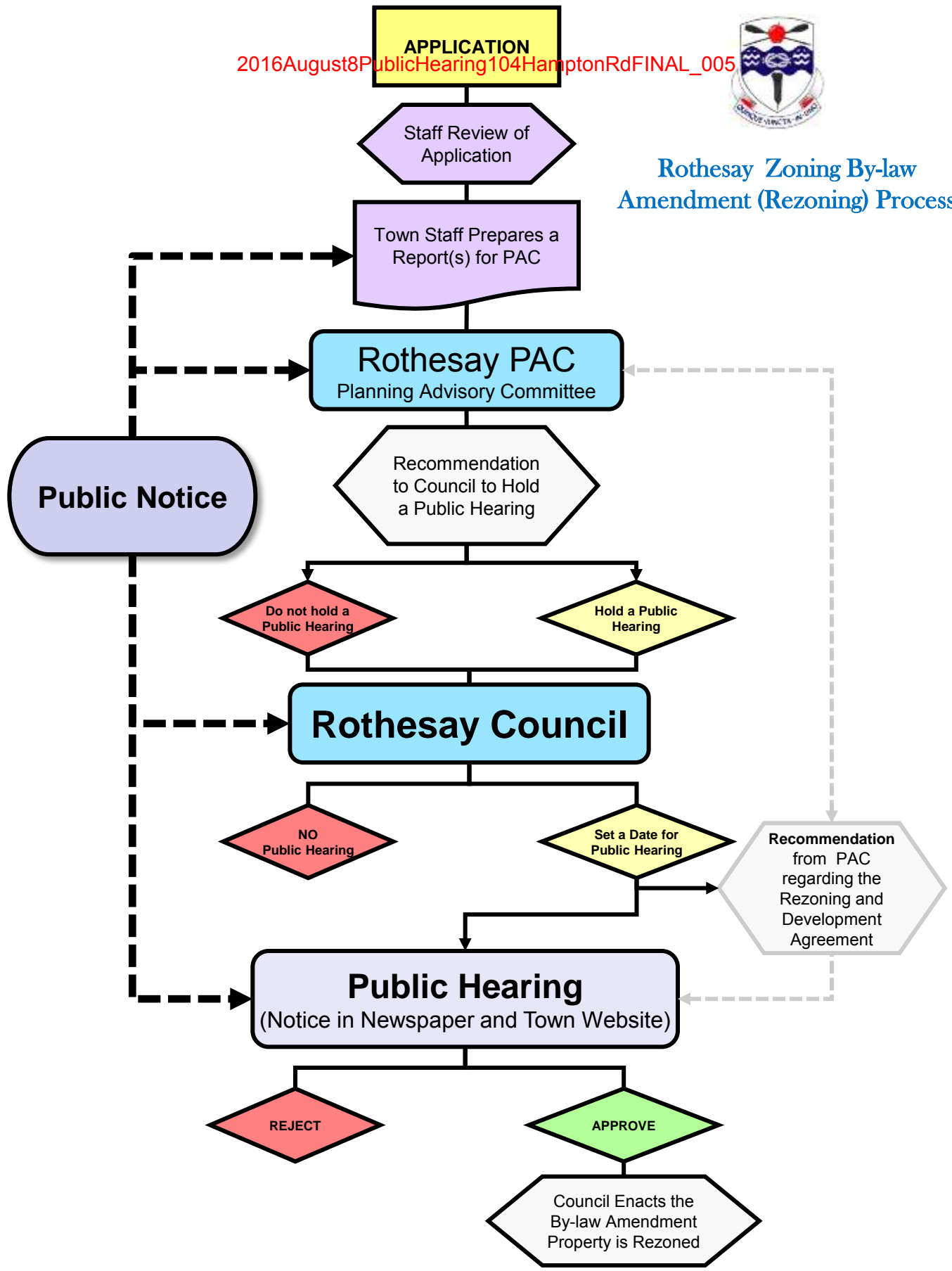
Council considers the input received at the hearing and decides to either:

- Allow the application to proceed by enacting by-law amendment(s); and development agreements (if applicable)
- Require that the by-law or development agreement be amended; or
- Deny the application

If Council decides to enact the by-law amendment, it is required to read the by-law, by title, three times over the course of two separate Council meetings, along with one reading in its entirety. First and Second reading by title may occur on the same night as the hearing; however, the third reading and enactment must be done at a separate Council meeting.



# Rothesay Zoning By-law Amendment (Rezoning) Process





FOR SALE: 201 Dodge 1/2 ton. Call 659-2505



FOR SALE: Lincoln Town Car. Low Mileage. call 6471040

2016August18PublicHearing104HamptonRdFINAL\_006

**GUNS WANTED**  
I PAY CASH  
for rifles, shotguns  
and handguns

Call (506) 261-1848

GENERAL ITEMS OVER \$500

WANTED TO BUY: Antiques and Collectibles. Call Saint John. 663-5008

TENDER/GENERAL NOTICES



### ROTHESAY PUBLIC NOTICE



In accordance with Section 68 of the Community Planning Act, R.S.N.B. (1973) Chapter C-12, and amendments thereto, PUBLIC NOTICE is hereby given that the town of Rothesay intends to consider an amendment to By-law 2-10, "Rothesay Zoning By-law" for 104 Hampton Road, PID # 30246979, under authority of Sections 34 and 74 of the Community Planning Act, supra, following a **PUBLIC HEARING** to be held on **Monday, August 8, 2016, commencing at 7:00 p.m.**, at Rothesay Town Hall, 70 Hampton Road, Rothesay, New Brunswick.

The purpose of the amendment is to consider the rezoning of lands located at 104 Hampton Road (PID 30246979) from Central Commercial (CC) to Multi-Unit Residential (R4), to allow for the development of two apartment buildings, pursuant to the execution of a Development Agreement, in accordance with Section 39 and Section 101 of the Community Planning Act, supra.

The documentation can be reviewed at the Town Office, 70 Hampton Road, Rothesay, New Brunswick, between the hours of 8:15 a.m. and 4:15 p.m., Monday to Friday, exclusive of civic holidays. Written objections to the proposed AMENDMENT will be received by the undersigned until **12:00 p.m. Wednesday, August 3, 2016**. Any person wishing to speak may do so at the **PUBLIC HEARING** on **Monday, August 8, 2016, commencing at 7:00 p.m.**

Mary Jane E. Banks, BComm  
Town Clerk - Rothesay

power.  
Beautiful ledge back of p  
Call 529-4107 or 466

LEG

### NOTICE OF MORTGAGE S

TO: WILLIAM H. MILLER a  
MILLER, of 19 Tilley Avenue  
Saint John, in the Saint John  
Province of New Brunswick,  
and owners of the equity of  
**CITIFINANCIAL CANADA  
CORPORATION**, holder of the  
second Mortgages and to  
**WHOM IT MAY CONCERN**

**NOTICE IS HEREBY GIVEN** t  
of Section 44 of the Property  
Brunswick, and pursuant to  
sale conferred by certain In  
Mortgages made on Octobe  
and registered in the Saint  
Registry Office on November  
as No. 24854482 and as No  
between **WILLIAM H. M  
JANE M. MILLER**, as  
and **CITIFINANCIAL CAN  
CORPORATION**, as Mortga  
having been made, there  
at public auction at the Sai  
Courts located at 10 Peel Pl  
John, NB on **August 3<sup>rd</sup>, 20  
a.m.** that freehold property I  
Tilley Avenue (Unit 53, Build  
D), Saint John, NB and kn  
55142756.

Together with all bui  
improvements thereon and  
privileges and appurtenan  
same belonging.

Further notice is hereby  
a sufficient offer of purc  
received for the said land a  
at the public auction, sa  
withdrawn from the sale  
disposed of by private con  
further notice being given.

Dated at Edmundston, New  
this 22<sup>nd</sup> day of June 2016.

McLaughlin Law Office:  
for CitiFinancial Canada  
Corporation  
Per: Gary J. McLaughlin  
112 Church Street, Edm  
E3V 1J8  
(506) 737-1515

#### APARTMENTS FOR RENT

#### PARK PLACE APARTMENTS

Comfortable • Affordable • Maintenance Free

EAST: Near McAllister Mall, Schools, Churches

• Bachelor \$540      1 Bedroom \$615  
• 2 Bedroom \$665      3 Bedroom \$730

Includes: Laundry facilities & private balconies  
2nd month FREE for New Tenants

\$50/month discount for Seniors

PLEASE CALL 696-1440

#### COMMERCIAL FOR RENT

#### GREAT LOCATION

Maritime Opportunity Center Inc.

- Office
- Commercial
- HEATED Storage
- Light Industrial
- Ample FREE Parking
- Large Spaces available

LEASE RATE \$0.80/Sq Ft  
Heat & Lights Incl.

Great space for all business  
635-8837 1216 Sand Cove rd  
mbserv@nb.sympatico.ca

"Like" us on FB for your chance to win.

CMYK

13 JULY 2016

Word ad deadlines

2016August8PublicHearing104HamptonRdFINAL\_007

Monday, Friday 5 p.m. | Tuesday, Monday 5 p.m.



# ROTHESAY PUBLIC NOTICE

In accordance with Section 68 of the Community Planning Act, R.S.N.B. (1973) Chapter C-12, and amendments thereto, PUBLIC NOTICE is hereby given that the town of Rothesay intends to consider an amendment to By-law 2-10, "Rothesay Zoning By-law" for 104 Hampton Road, PID # 30246979, under authority of Sections 34 and 74 of the Community Planning Act, supra, following a PUBLIC HEARING to be held on **Monday, August 8, 2016, commencing at 7:00 p.m.**, at Rothesay Town Hall, 70 Hampton Road, Rothesay, New Brunswick.

The purpose of the amendment is to consider the rezoning of lands located at 104 Hampton Road (PID 30246979) from Central Commercial (CC) to Multi-Unit Residential (R4), to allow for the development of two apartment buildings, pursuant to the execution of a Development Agreement, in accordance with Section 39 and Section 101 of the Community Planning Act, supra.

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Mary Jane E. Banks, BComm  
Town Clerk – Rothesay



# ROTHESAY MEMORANDUM



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TO : Mayor Grant and Rothesay Council  
FROM : Town Clerk Mary Jane Banks  
DATE : 3 August 2016  
RE : 104 Hampton Road – By-law/Development Agreement

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## **RECOMMENDATION:**

- Council give 1<sup>st</sup> Reading, by Title, to By-law 2-10-26, “A By-law to Amend the Zoning By-law”
  
- Council give 2<sup>nd</sup> Reading, by Title, to By-law 2-10-26, “A By-law to Amend the Zoning By-law”

## **BACKGROUND:**

The Planning Advisory Committee passed the following motions at its regular meeting on Tuesday, August 2, 2016:

**MOVED** by Counc. Shea and seconded by Counc Lewis the Planning Advisory Committee:

- A. Grant the following variances for the lands located at 104 Hampton Road (PID 30246979) subject to the rezoning:
  1. Reduced parking space standard of 1.25 parking spaces for 1 and 2 bedroom units;
  2. 6.06% reduction on the lot size requirement allowing for a total density not exceeding 35 apartment units; and
  3. 40% reduction on side yard setbacks to allow a building 3m to the property line

**CARRIED.**

**MOVED** by Counc. Lewis and seconded by C. Pinhey the Planning Advisory Committee:

- B. Recommend that Council enact BY-LAW 2-10-26, as amended, to rezone lands located at 104 Hampton Road (PID 30246979) from Central Commercial (CC) to Multi-unit Residential (R4).

**CARRIED.**

**MOVED** by Counc. Lewis and seconded by Counc Shea the Planning Advisory Committee:

- C. Recommend that Council enter into a Development Agreement, as amended, with Mr. Brett Taylor to allow for the development of two apartment buildings containing not more than 35 units on lands located at 104 Hampton Road (PID 30246979).

**CARRIED.**





**REVISED**

**BY-LAW 2-10-26  
A BY-LAW TO AMEND THE ZONING BY-LAW  
(No.2-10 Rothesay)**

The Council of the town of Rothesay, under authority vested in it by Sections 34 and 74 of the Community Planning Act, R.S.N.B. (1973) Chapter C-12, and amendments thereto, hereby amends By-Law 2-10 "Rothesay Zoning By-law" and enacts as follows:

That Schedule A, entitled "Zoning" as attached to By-Law 2-10 "ROTHESAY ZONING BY-LAW" is hereby amended, as identified on the attached sketch, identified as Attachment "2-10-26".

The purpose of the amendment is to rezone lands located at 104 Hampton Road (PID 30246979) from Central Commercial (CC) to Multi-Unit Residential (R4) to allow for the development of two apartment buildings subject to the execution of a Development Agreement in accordance with Section 39 and Section 101 of the Community Planning Act, supra.

FIRST READING BY TITLE :  
SECOND READING BY TITLE :  
READ IN ENTIRETY :  
THIRD READING BY TITLE  
AND ENACTED :

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK



Attachment - Bylaw 2-10-26  
Subject Property - PID: 30246979

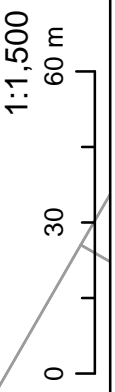
Date: 22/06/2016



2016August8PublicHearing104HamptonRdFINAL\_010



-  Re-zoning Area
-  Property Boundaries



DEVELOPMENT AGREEMENT  
*Land Titles Act, S.N.B. 1981, c.L-1.1, s.24*

**REVISED**

Parcel Identifier  
of Parcel Burdened by Agreement:  
**PID 30246979**

BETWEEN: **Brett Taylor (TBA - Insert Corporate Name)**  
14 Wiltshire Drive  
Quispamsis, NB E2E 0E9  
A body corporate, in the Province of New  
Brunswick  
(Hereinafter called the "Developer")

OF THE FIRST PART

- And -

**Rothesay**  
70 Hampton Road  
Rothesay, New Brunswick, E2E 5L5  
A municipal body corporate, in the Province of New  
Brunswick (Hereinafter called the "Town")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 104 Hampton Road PID 30246979 and which said lands are more particularly described in **Schedule A** hereto (hereinafter called the "Lands");

AND WHEREAS Rothesay did on **(INSERT DATE)** authorize the Mayor and Clerk to enter into the agreement with **Brett Taylor** for the development of two apartment buildings at 104 Hampton Road (PID 30246979) the "Lands" pursuant to the provisions of the *Community Planning Act*.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that for and in the consideration of the previous agreements and mutual covenants and agreements herein expressed and contained, the parties hereto covenant and agree as follows:

1. The number of apartment buildings situated on the Lands indicated on **Schedule B** shall not exceed two;
2. The maximum number of apartment units shall not exceed 35 units; and
3. The minimum number of parking lot spaces shall not be less than 44 spaces.

**Schedules**

4. The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, is generally in conformance with the following Schedules attached to this Agreement:
  - a) Schedule A Property Description
  - b) Schedule B Proposed Site Plan
  - ~~c) Schedule C Proposed Storm Water Management Plan~~
  - d) Schedule C Proposed Architectural Renderings

**Site Development**

5. The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, is generally in conformance with this Agreement.
  - a. Maximum density shall not exceed two apartment buildings containing not more than 35 apartment units and be located on the property generally as described on **Schedule A**.
6. The Developer expressly agrees and understands that notwithstanding any provision of the Town's Building By-Laws or any statutory by-law or regulatory provision to the contrary, the Building Inspector shall not issue a building permit to the Property Owner for work directly connected with the development of the Lands, nor shall the Property Owner be entitled to such a permit unless and until the Development Officer has approved the Site Plan submitted as part of the Development Permit process illustrating the precise size, location and configuration of the proposed building(s).
7. The Developer expressly agrees and understands that excepting as otherwise provided for herein, the development, subdivision and use of the Lands shall comply with the requirements of the Rothesay Zoning By-law 2-10 as may be amended from time to time.

**Architectural Guidelines**

8. The Developer agrees that an objective of this development is to provide a high quality and visually attractive development which exhibits an architectural design that reinforces the character complement existing housing and to be generally consistent with the existing styles of Rothesay. The Developer agrees to ensure the following:
  - a. The architectural design of the buildings shall be, in the opinion of the Development Officer, generally in conformance with **Schedule C**.
  - b. The building plans shall have similar features, such as roof lines, facade articulation (projections/recesses), fenestration, primary exterior wall colour or materials or roof colour, etc.
  - c. The building facades shall include design elements, finishing materials and variations that will reduce any perceived mass and linearity of large buildings and add architectural interest
  - d. The building design should reflect the use of appropriate high quality materials and architectural expressions to reduce the impact of height, bulk and density on adjacent lower density development and contributes to the visual enhancement of the area.
  - e. All ventilation and related mechanical equipment, including roof mechanical units, shall be concealed by screening in a manner compatible with the architectural character of the building, or concealed by incorporating it within the building framework.

**Stormwater Management**

9. The Developer agrees that Final Occupancy of the proposed buildings, as required in the Building By-law, shall not occur until the storm water management plan **as attached in Schedule C of this agreement** in compliance with Schedule "D" – Storm water Standards of Rothesay

Zoning By-law No. 02-10 as may be amended from time to time has been completed to the satisfaction of the Town's Director of Operations.

10. The Developer agrees to provide to the Director of Operations written Certification from a qualified professional engineer licensed to practice in the Province New Brunswick, that the storm water system and works have been satisfactorily completed and constructed to control the storm water in compliance with Schedule "D" – Storm water Standards of Rothesay Zoning By-law No. 02-10 as may be amended from time to time.

#### **Landscaping**

11. The Developer agrees that a detailed landscaping plan shall be submitted in accordance prior to the approval of any development permit. This plan shall include pedestrian connections and fencing details, exterior lighting and street furniture elements, pedestrian seating areas, varied sizes and location and species of new plantings for the site, and including special treatment to clearly delineate pedestrian linkages from the building to Hampton Road.

#### **Security & Occupancy**

12. The Town and Developer agree that Final Occupancy of the proposed apartment building(s), as required in the Building By-law, shall not occur until all conditions above have been met to the satisfaction of the Development Officer.
13. Notwithstanding Parts 9, 10, 11 of this Agreement, the Town agrees that the Occupancy Permit may be issued provided the Developer supplies a security deposit in the amount of 110 percent of the estimated cost to complete the required storm water management and landscaping. The security deposit shall comply with the following conditions:
  - a. security in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank dispensed to and in favour of Rothesay;
  - b. the Developer agrees that if the landscaping or storm water works are not completed within a period not exceeding six (6) months from the date of issuance of the Occupancy Permit, the Town may use the security to complete the works as set out in Parts 9, 10, 11 of this Agreement;
  - c. the Developer agrees to reimburse the Town for 100% of all costs exceeding the security necessary to complete the works as set out in Parts 9, 10, 11 this Agreement; and
  - d. the Town agrees that the security or unused portion of the security shall be returned to the Developer upon certification that the work has been completed and acceptable to the Development Officer.

#### **Indemnification**

14. The Developer does hereby indemnify and save harmless the Town from all manner of claims or actions by third parties arising out of the work performed hereunder, and the Developer shall file with the Town prior to the commencement of any work hereunder a certificate of insurance naming the Town as co-insured evidencing a policy of comprehensive

general liability coverage on “an occurrence basis” and containing a cross-liability clause which policy has a limit of not less than Two Million Dollars (\$2,000,000.<sup>00</sup>). The aforesaid certificate must provide that the coverage shall stay in force and not be amended, cancelled or allowed to lapse within thirty (30) days prior to notice in writing being given to the Town. The aforesaid insurance coverage must remain in full force and effect during the period available to the Developer pursuant to this agreement to complete the work set out as described in this Agreement.

**Notice**

15. Any notice or advice which is to be given under this Agreement shall be deemed to have been satisfactorily given to the Developer if delivered personally or by prepaid mail addressed to **BRETT TAYLOR 14 WILTSHIRE DRIVE, QUISPAMIS, NEW BRUNSWICK E2E 0E9** and to the Town if delivered personally or by prepaid mail addressed to ROTHESAY, 70 HAMPTON ROAD, ROTHESAY, NEW BRUNSWICK, E2E 5L5. In the event of notice by prepaid mail, the notice will be deemed to have been received four (4) days following its posting.

**By-laws**

16. The Developer agrees to be bound by and to act in accordance with the By-laws of the Town and such other laws and regulations that apply or may apply in future to the site and to activities carried out thereon.

**Termination**

17. The Town reserves the right and the Developer agrees that the Town has the right to terminate this Agreement without compensation to the Developer if the specific proposal has not been completed satisfactorily such that the written certifications contemplated in this agreement could reasonably be issued within sixty (60) months of the execution of this Agreement.
18. If the Town terminates this Agreement, the Developer agrees that the Town may call the Letter of Credit described herein and apply the proceeds to the cost of completing the work or portions thereof as outlined in the agreement. If there are amounts remaining after the completion of the work in accordance with this agreement, the remainder of the proceeds shall be returned to the Institution issuing the Letter of Credit. If the proceeds of the Letter of Credit are insufficient to compensate the Town for the costs of completing the work mentioned in this agreement, the Developer shall promptly on receipt of an invoice pay to the Town the amounts required to complete the work.

**Entire Agreement**

19. This Agreement contains the whole agreement between the parties hereto as regards the lands outlined in the plan hereto annexed.

**Severability**

20. If any paragraph or part of this agreement is found to be illegal or beyond the power of the Town Council to execute, such paragraph or part or item shall be deemed to be severable and all other paragraphs or parts of this agreement shall be deemed to be separate and independent therefrom and to be agreed as such.

**Reasonableness**

21. Both parties agree to act reasonably in connection with any matter, action, decision, comment or approval required or contemplated under this Agreement.

**Registration**

22. A copy of this Agreement and every amendment and/or discharge of this Agreement shall be recorded at the Land Registry Office, in Hampton, New Brunswick and the Developer shall incur all costs in recording such documents.

**Subsequent Owners**

23. This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which is the subject of this Agreement until this Agreement is discharged by Council.
24. 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).

**REVISED**

**IN WITNESS HEREOF** the parties have duly executed these presents the day and year first above written.

Date: \_\_\_\_\_, 2016

Witness:

Brett Taylor

\_\_\_\_\_

\_\_\_\_\_

**PRESIDENT**

Witness:

Rothesay:

\_\_\_\_\_

\_\_\_\_\_

Mayor

\_\_\_\_\_

\_\_\_\_\_

Clerk



**SCHEDULE A – PROPERTY DESCRIPTION**

<b>PID:</b>	30246979
<b>Apparent Parcel Access:</b>	Public Access
<b>Status:</b>	Current
<b>Effective Date/Time:</b>	2007-07-13 14:19:53
<b>Page:</b>	1
<b>Legal Description:</b>	<p>PARCEL 1 That Parcel of Land located in the Parish of Rothesay, Town of Rothesay, County of Kings, bounded and described as follows: Beginning at a point on the Hampton Road at the dividing line of lands now owned or formerly owned by Gordon Elsworth Lindsay and lands formerly owned by Catherine M. McCarthy, now owned by E. Lowe thence running along said line in an easterly direction one hundred and ninety-five (195) feet; thence at right angles running in a southerly direction one hundred (100) feet to an iron stake; thence running in a westerly direction one hundred and ninety-five (195) feet or until it strikes the bounds of the said Hampton Road and preserving the one hundred (100) feet in breadth throughout; thence following the bounds of the said Hampton road in a northerly direction one hundred (100) feet to the place of beginning. Said description contained in a Deed to Lyman B. Burhoe and Evelyn Agnes Burhoe registered June 18, 1962, Kings County, in Book 102, page 313, as Number 16352. PARCEL 2 That Parcel of Land located in the Parish of Rothesay, Town of Rothesay, County of Kings, bounded and described as follows: Beginning at the Northwestern point at the intersection of the Burhoe &amp; Lowe property going in a Southeasterly direction approximately Two Hundred and Five (205) feet or until it reaches the Daniel and Mary Humphrey property, as indicated on Plan of Survey Showing Boundary Confirmation between Daniel and Mary Humphrey Property and Richard and Beverley Burhoe Property registered Kings County as Plan # 20460086; thence Southwardly along the said line Two Hundred and Seventy-one (271) feet, eight (8) inches more or less; thence Westwardly One Hundred and fifty-Nine (150) feet, two (2) inches or until it reaches the Saunders property; thence Northeastwardly Eighty-three (83) feet to the Northeastern Corner of Lot 95-1 as indicated on Plan of Survey , Amending Subdivision Plan, Kennebecasis Drugs, registered Kings Count as Plan # 200838; thence westwardly One Hundred and Sixty Five (165) feet along the Northern boundary of the said Lot 95-1 until it reaches the George Lindsay property; thence Northeasterly approximately Two Hundred and Twelve (212) feet, Five (5) inches more or less to the place of beginning. This improved description intending to be the description contained in a Deed to Lyman B. Burhoe and Evelyn Agnes Burhoe registered June 18, 1962, Kings County, in Book 102, page 313, as Number 126352.</p>

**SCHEDULE B – SITE PLAN**

**SCHEDULE C – STORM WATER MANAGEMENT PLAN**

**SCHEDULE C – ARCHITECTURAL RENDERINGS**

**Form 45**  
**AFFIDAVIT OF CORPORATE EXECUTION**  
**Land Titles Act, S.N.B. 1981, c.L-1.1, s.55**

Deponent: **BRETT TAYLOR COMPANY**  
**Brett Taylor**  
17 Crosswind Crescent  
Rothesay, New Brunswick  
E2E 0P6

Office Held by Deponent: **President**

Corporation: **Brett Taylor**

Place of Execution: Rothesay, Province of New Brunswick.

Date of Execution: \_\_\_\_\_, 2016.

I, **BRETT TAYLOR**, the deponent, make oath and say:

1. That I hold the office specified above in the corporation specified above, and am authorized to make this affidavit and have personal knowledge of the matters hereinafter deposed to;
2. That the attached instrument was executed by me as the officer(s) duly authorized to execute the instrument on behalf of the corporation;
3. The signature "**BRETT TAYLOR**" subscribed to the within instrument is the signature of me and is in the proper handwriting of me, this deponent.
4. The Seal affixed to the foregoing indenture is the official seal of the said Corporation was so affixed by order of the Board of Directors of the Corporation to and for the uses and purposes therein expressed and contained;
5. That the instrument was executed at the place and on the date specified above;

DECLARED TO at Rothesay,  
in the County of Kings, )  
and Province of New Brunswick, )  
This \_\_\_ day of \_\_\_\_\_, 2016. )

BEFORE ME: )  
)  
)  
\_\_\_\_\_)  
Commissioner of Oaths )

\_\_\_\_\_  
**BRETT TAYLOR**

**Form 45**  
**AFFIDAVIT OF CORPORATE EXECUTION**  
**Land Titles Act, S.N.B. 1981, c.L-1.1, s.55**

Deponent: **MARY JANE E. BANKS**  
Rothesay  
70 Hampton Road  
Rothesay, N.B.  
E2E 5L5

Office Held by Deponent: Clerk

Corporation: **Rothesay**

Other Officer Who Executed the Instrument: **NANCY E. GRANT**  
Rothesay  
70 Hampton Road  
Rothesay, N.B.  
E2E 5L5

Office Held by Other Officer Who Executed the Instrument: **MAYOR**

Place of Execution: Rothesay, Province of New Brunswick.

Date of Execution: \_\_\_\_\_, 2016.

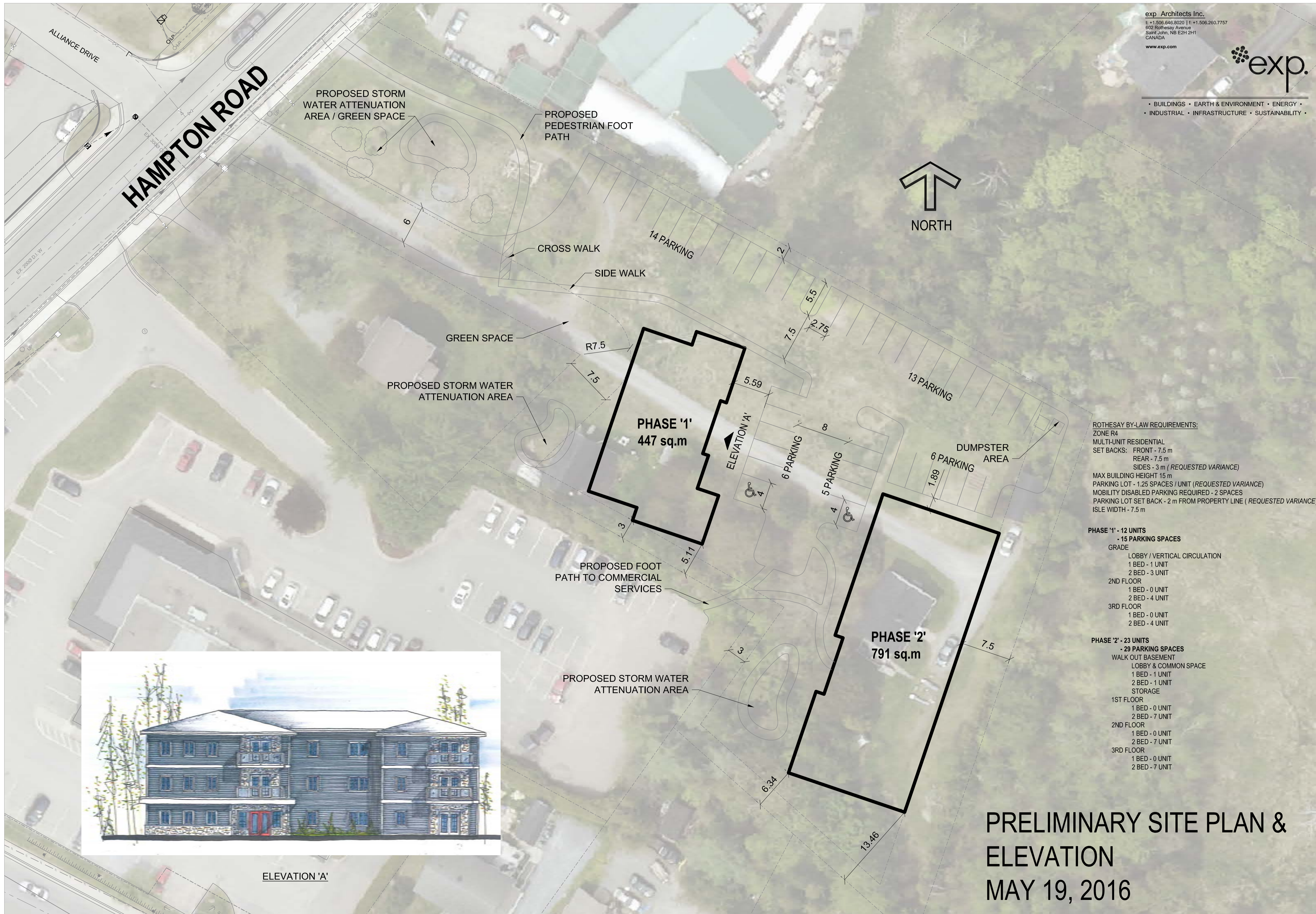
I, **MARY JANE E. BANKS**, the deponent, make oath and say:

1. That I hold the office specified above in the corporation specified above, and am authorized to make this affidavit and have personal knowledge of the matters hereinafter deposed to;
6. That the attached instrument was executed by me and **NANCY E. GRANT**, the other officer specified above, as the officer(s) duly authorized to execute the instrument on behalf of the corporation;
7. The signature "**NANCY E. GRANT**" subscribed to the within instrument is the signature of Nancy E. Grant, who is the Mayor of the town of Rothesay, and the signature "**Mary Jane E. Banks**" subscribed to the within instrument as Clerk is the signature of me and is in the proper handwriting of me, this deponent, and was hereto subscribed pursuant to resolution of the Council of the said Town to and for the uses and purposes therein expressed and contained;
8. The Seal affixed to the foregoing indenture is the official seal of the said Town and was so affixed by order of the Council of the said Town, to and for the uses and purposes therein expressed and contained;
9. That the instrument was executed at the place and on the date specified above;

DECLARED TO at town of  
Rothesay, in the County of Kings, )  
and Province of New Brunswick, )  
This \_\_\_ day of \_\_\_\_\_, 2016. )

BEFORE ME: )  
)  
)  
\_\_\_\_\_)  
Commissioner of Oaths )

\_\_\_\_\_  
**MARY JANE E. BANKS**



**ROTHERAY BY-LAW REQUIREMENTS:**  
ZONE R4  
MULTI-UNIT RESIDENTIAL  
SET BACKS: FRONT - 7.5 m  
REAR - 7.5 m  
SIDES - 3 m (REQUESTED VARIANCE)  
MAX BUILDING HEIGHT 15 m  
PARKING LOT - 1.25 SPACES / UNIT (REQUESTED VARIANCE)  
MOBILITY DISABLED PARKING REQUIRED - 2 SPACES  
PARKING LOT SET BACK - 2 m FROM PROPERTY LINE (REQUESTED VARIANCE)  
ISLE WIDTH - 7.5 m

**PHASE '1' - 12 UNITS**  
**- 15 PARKING SPACES**  
GRADE  
LOBBY / VERTICAL CIRCULATION  
1 BED - 1 UNIT  
2 BED - 3 UNIT  
2ND FLOOR  
1 BED - 0 UNIT  
2 BED - 4 UNIT  
3RD FLOOR  
1 BED - 0 UNIT  
2 BED - 4 UNIT

**PHASE '2' - 23 UNITS**  
**- 29 PARKING SPACES**  
WALK OUT BASEMENT  
LOBBY & COMMON SPACE  
1 BED - 1 UNIT  
2 BED - 1 UNIT  
STORAGE  
1ST FLOOR  
1 BED - 0 UNIT  
2 BED - 7 UNIT  
2ND FLOOR  
1 BED - 0 UNIT  
2 BED - 7 UNIT  
3RD FLOOR  
1 BED - 0 UNIT  
2 BED - 7 UNIT



ELEVATION 'A'

# PRELIMINARY SITE PLAN & ELEVATION

MAY 19, 2016

# SCHEDULE D – ARCHITECTURAL RENDERINGS

## Phase 1

2016August8PublicHearing 104 Hampton Rd FINAL\_022

### 12 unit Building Front Facade



## Phase 2

### Front Elevation 23 Unit Building



## Phase 2

### Rear Elevation 23 Unit Building

104 Hampton Road

**Form 45**  
**AFFIDAVIT OF CORPORATE EXECUTION**  
**Land Titles Act, S.N.B. 1981, c.L-1.1, s.55**

Deponent: **BRETT TAYLOR COMPANY**  
**Brett Taylor**  
17 Crosswind Crescent  
Rothesay, New Brunswick  
E2E 0P6

Office Held by Deponent: **President**

Corporation: **Brett Taylor**

Place of Execution: Rothesay, Province of New Brunswick.

Date of Execution: \_\_\_\_\_, 2016.

I, **BRETT TAYLOR**, the deponent, make oath and say:

1. That I hold the office specified above in the corporation specified above, and am authorized to make this affidavit and have personal knowledge of the matters hereinafter deposed to;
2. That the attached instrument was executed by me as the officer(s) duly authorized to execute the instrument on behalf of the corporation;
3. The signature "**BRETT TAYLOR**" subscribed to the within instrument is the signature of me and is in the proper handwriting of me, this deponent.
4. The Seal affixed to the foregoing indenture is the official seal of the said Corporation was so affixed by order of the Board of Directors of the Corporation to and for the uses and purposes therein expressed and contained;
5. That the instrument was executed at the place and on the date specified above;

DECLARED TO at Rothesay,  
in the County of Kings, )  
and Province of New Brunswick, )  
This \_\_\_ day of \_\_\_\_\_, 2016. )

BEFORE ME: )  
)  
\_\_\_\_\_)  
Commissioner of Oaths )

\_\_\_\_\_  
**BRETT TAYLOR**

**Form 45**  
**AFFIDAVIT OF CORPORATE EXECUTION**  
**Land Titles Act, S.N.B. 1981, c.L-1.1, s.55**

Deponent: **MARY JANE E. BANKS**  
Rothesay  
70 Hampton Road  
Rothesay, N.B.  
E2E 5L5

Office Held by Deponent: Clerk

Corporation: **Rothesay**

Other Officer Who Executed the Instrument: **NANCY E. GRANT**  
Rothesay  
70 Hampton Road  
Rothesay, N.B.  
E2E 5L5

Office Held by Other Officer Who Executed the Instrument: **MAYOR**

Place of Execution: Rothesay, Province of New Brunswick.

Date of Execution: \_\_\_\_\_, 2016.

I, **MARY JANE E. BANKS**, the deponent, make oath and say:

1. That I hold the office specified above in the corporation specified above, and am authorized to make this affidavit and have personal knowledge of the matters hereinafter deposed to;
6. That the attached instrument was executed by me and **NANCY E. GRANT**, the other officer specified above, as the officer(s) duly authorized to execute the instrument on behalf of the corporation;
7. The signature "**NANCY E. GRANT**" subscribed to the within instrument is the signature of Nancy E. Grant, who is the Mayor of the town of Rothesay, and the signature "**Mary Jane E. Banks**" subscribed to the within instrument as Clerk is the signature of me and is in the proper handwriting of me, this deponent, and was hereto subscribed pursuant to resolution of the Council of the said Town to and for the uses and purposes therein expressed and contained;
8. The Seal affixed to the foregoing indenture is the official seal of the said Town and was so affixed by order of the Council of the said Town, to and for the uses and purposes therein expressed and contained;
9. That the instrument was executed at the place and on the date specified above;

DECLARED TO at town of  
Rothesay, in the County of Kings, )  
and Province of New Brunswick, )  
This \_\_\_ day of \_\_\_\_\_, 2016. )

BEFORE ME: )  
)  
)  
\_\_\_\_\_)  
Commissioner of Oaths )

\_\_\_\_\_  
**MARY JANE E. BANKS**





**To:** Chair and Members of the Rothesay Planning Advisory Committee

**From:** Brian L. White, MCIP, RPP  
Director of Planning and Development Services

**Date:** Wednesday, July 27, 2016

**Subject:** Rezoning to R4 Multi-unit Residential – 104 Hampton Road (PID 30246979)

<b>Applicant:</b>	Brett Taylor	<b>Property Owner:</b>	Georgoudis Investments Ltd
<b>Mailing Address:</b>	14 Wiltshire Drive Quispamsis, NB E2E 0E9	<b>Mailing Address:</b>	2 Peel Plaza Saint John, NB E2L 3G6
<b>Property Location:</b>	104 HAMPTON RD	<b>PID:</b>	30246979
<b>Plan Designation:</b>	Central Commercial	<b>Zone:</b>	Central Commercial
<b>Application For:</b>	Rezoning to R4 Multi-unit Residential		
<b>Input from Other Sources:</b>	Director of Operations		

**Origin:**

An application from Mr. Brett Taylor to rezone a 6,563.83 square meter parcel of land located at 104 Hampton Road (PID30246979) from Central Commercial (CC) to Multi-Unit Residential (R4). A public hearing before Rothesay Town Council is scheduled for August 8<sup>th</sup>, 2016.

**Background:**

The property is designated Central Commercial and zoned Central Commercial is capable of being serviced with both sewer and water with direct access to Hampton Road. (See Map 1) The rezoning is requested in order to permit the development of two apartment buildings with Phase 1 being a 12 unit building and Phase 2 being a 23 unit building.



Figure 1 - 104 Hampton Road

## **Analysis:**

The Municipal Plan for Rothesay includes the following passage with regard to encouraging this sort of residential development along Hampton Road as follows:

*While the Hampton Road is linear and the policy is to maintain the commercial activities central to Hampton Road, **the opportunity exists to allow for higher density residential development in association with commercial activities.** This concept is becoming very popular in larger urban centres to encourage a resettlement of the downtown core. The Council has expressed an interest in considering residential settlement patterns in association with commercial uses for the future, particularly in light of the anticipated high rate of development associated with the rapidly expanding energy sector in Saint John.*

*Furthermore Policy 8.2.3 (c)<sup>1</sup> states specifically that high density residential associated with Hampton Road's commercial is something that is will be accommodated.*

The proposal before PAC at the preliminary conceptual stage of development. The applicant has indicated that future development of the property (e.g. construction of buildings) will begin with a 12 unit building and more take several years to complete the second phase 23 unit building. The applicant intends that these buildings would be in compliance with the R4 zone requirements and the terms of a development agreement. Staff conducted a preliminary review of the applicant's proposed concept plan based upon the R4 zone requirements and established the following:

### **Lot Size**

The property (PID 30246979) is 6,563.83m<sup>2</sup> (1.62 acres). The R4 zone requires 200 square meters of lot area per apartment unit, consequently the maximum unit density the property could yield is 33 units. The applicant's conceptual plan states a total density of 35 units requiring a variance of 6.06%. Staff are content that this request is a reasonable minor variance and are recommending approval.

### **Setbacks**

The proposed apartment and townhouse buildings are shown on the attached site plan. Notwithstanding that the plan is preliminary; the buildings do to comply with the applicable 7.5 meter minimum yard setback standards for the front, rear and major side yard as well as the 5 meter minimum minor side yard setback with one exception. The 12 unit building would require a 40% variance to allow a building 3m to the property line whereas the requirement is a 5 meter minimum minor side yard setback. Staff note that the area specific to the variance request is located adjacent to the drug store parking lot. Staff would anticipate that new residential units so close to a commercial parking lot might encounter land use conflicts. It would be highly advantageous for the applicant to work out with the neighbouring commercial drug store mutually beneficial buffers, berms, and fencing and directional lighting to reduce possible impacts on apartment residents. Staff are content that this variance request is reasonable and are recommending approval.

### **Parking**

The R4 zone requires 1.3 parking spaces for 1 and 2 bedroom apartment units. To accommodate a proposed density of 35 apartment units would require 45.5 parking spaces the proposed concept plan only shows 44 parking spaces and would require a variance. Staff have generally recommended that developers use a standard of 1.25 for 1 and 2 bedroom units which would result in 44 parking spaces. Staff are content that this request is a reasonable minor variance and are recommending approval of a reduced standard of 1.25 parking spaces for 1 and 2 bedroom units.

### **Building(s)**

The Municipal Plan policy allows Council to consider roof type and pitch when considering a rezoning to R4; the elevations submitted indicate a common architectural style 3 story apartment building with pitched roof and apartment balconies (see Figure 2). All proposed buildings would be required to comply with the R4 zone maximum building height of 15m.

The proposed development agreement includes the following:

---

<sup>1</sup> 8.2.3 (c) Council will provide for a broad range of commercial uses and higher density residential development associated with the commercial uses in the Central Commercial Zone.

“8. The Developer agrees that an objective of this development is to provide a high quality and visually attractive development which exhibits an architectural design that reinforces the character complement existing housing and to be generally consistent with the existing styles of Rothesay. The Developer agrees to ensure the following:

- a. The architectural design of the buildings shall be, in the opinion of the Development Officer, generally in conformance with Schedule D.
- b. The building plans shall have similar features, such as roof lines, facade articulation (projections/recesses), fenestration, primary exterior wall colour or materials or roof colour, etc.
- c. The building facades shall include design elements, finishing materials and variations that will reduce any perceived mass and linearity of large buildings and add architectural interest
- d. The building design should reflect the use of appropriate high quality materials and architectural expressions to reduce the impact of height, bulk and density on adjacent lower density development and contributes to the visual enhancement of the area.
- e. All ventilation and related mechanical equipment, including roof mechanical units, shall be concealed by screening in a manner compatible with the architectural character of the building, or concealed by incorporating it within the building framework.”

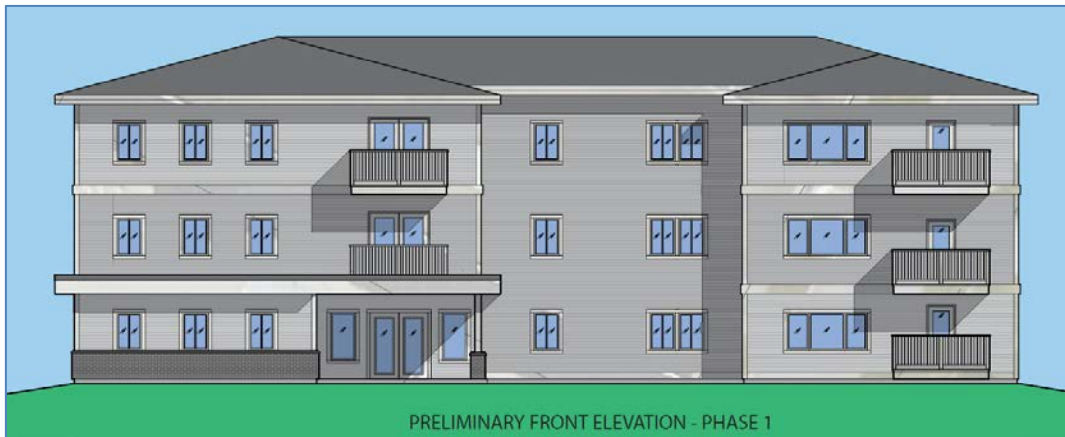


Figure 2 - Typical Façade of Proposed Buildings

### Area Compatibility

The Hampton Road central commercial area are characterized as Rothesay’s “mainstreet” and improvements to the streetscape have been a focus for Council recognizing the need to improve the pedestrian environment and the appearance of the commercial area (see Figure 3).

The Municipal Plan includes policies to make the Hampton Road more pedestrian-friendly and by adding amenities such as more greenery and litter containers and controlling the proliferation of signage often found in areas of strip commercial development. The proposed higher density multi-unit apartment buildings and added population will reinforce the pedestrian amenities on Hampton Road and support the existing commercial businesses.



Figure 3 - Hampton Road Streetscape Improvements (Traffic islands and Bike Lanes)

### Density

The R4 zone allows development of apartments and attached housing at the highest density permitted by the Rothesay Municipal Plan, which is 20 units per acre or 50 units per hectare. The property has a potential maximum residential density of 32 units whereas the proposal is for a total density of 35 units including apartment and townhouse units.

### Storm Water

Should Council approve the rezoning request and the development agreement the project will be required to comply with Schedule "D" – Storm water Standards of the Town's zoning by-law. The applicant's responsibility for storm water management will require that they address the following:

- Storm water treatment to trap suspended solids
- Storm water discharge controls to match pre-development flows for all storm events (1 year to 100 year)

The proposed development agreement includes a specific requirement that Council attach an approved storm water management plan as a schedule of the agreement. Staff understand that the storm water management plan is being prepared and would be ready for Council's review prior to third reading, should Council give 1<sup>st</sup> and 2<sup>nd</sup> reading of the by-law amendment.

Notwithstanding, the receipt of a storm water management plan the applicant has prepared a site plan that demonstrates some of the elements of their storm water management design

### Landscaping

Although no landscaping details are provided, the zoning by-law requires that front yards shall be maintained with a minimum area of 60% in turf or other landscaping material such as trees, planting beds, hedges and walkways. Furthermore, that parking areas shall be screened from abutting lower density residential zones.

### Summary

Staff have reviewed the applicant's proposal and have determined that at the preliminary stage the proposed project would meet the requirements of the R4 zone. Furthermore, Staff considers that the application would reinforce and support the central commercial designation of Hampton Road as specified in By-Law 1-10 the Rothesay Municipal Plan and as follows:

1. **Ability to walk to destinations.** Because Hampton Road contains a variety of destinations near the proposed apartment building (see Figure 1), it is easier to walk from one use to another. This gives the option of walking for people who don't want to drive and to those who can't drive, such as children, some elderly, and some people with disabilities.

2. **Fewer vehicles on external roads.** Since drivers can reach various destinations within a short distance, such as drug store, grocery store, bake shop, professional offices, there will be fewer vehicle trips on roads external to the development.
3. **Support for public transit access.** Higher density residential development on Hampton Road, combined with the many commercial destinations increases the potential pool of transit riders, increased ridership reinforces the public investment in bus stops and transit routing.
4. **Greater sense of community.** The proposed development can create a strong sense of community by providing a dedicated local customer base that will visit shops on a daily basis and become well known to staff and business owners.
5. **Greater public safety and security.** Higher density residential near commercial uses provides extra pedestrians and “eyes on the street” throughout the day and night which improves public safety and security.
6. **Increased diversity in Housing Market.** Projects such as proposed represent an effort to supply the market place with product that will allow for home owners wishing to downsize and for rental for younger families and singles.

### **Development Agreement:**

A rezoning to R4 would, subject to Council’s discretionary approval, be subject to the approval of a Section 39 and/or Section 101 Development Agreement pursuant to the Community Planning Act. Attachment A contains the proposed draft development agreement which includes details where by the applicant agrees to construct specific buildings, parking, landscaping, site works and a storm water management plan in identified locations on the property all approved by Council prior to commencing any work.

### **Recommendation:**

Staff recommend THAT the Planning Advisory Committee:

- A. GRANT the following variances:
  1. reduced parking space standard of 1.25 parking spaces for 1 and 2 bedroom units;
  2. 6.06% reduction on the Lot size requirement allowing for a total density not exceeding 35 apartment units; and
  3. 40% reduction on side yard setbacks to allow a building 3m to the property line
- B. Recommend that Council enact BY-LAW 2-10-26 to rezone lands located at 104 Hampton Road (PID 30246979) from Central Commercial (CC) to Multi-Unit Residential (R4).
- C. Recommend that Council enter into a Development Agreement with Mr. Brett Taylor to allow for the development of two apartment buildings containing not more than 35 units on lands located at 104 Hampton Road (PID 30246979).

### **Polling**

Staff sent out polling letters to inform property owners of the application and public hearing and have not received any written feedback.

### **Attachments:**

Map 1	Aerial Photo Location Map
Attachment A	DRAFT Development Agreement
Attachment B	DRAFT By-law Amendment 2-10-26



Date: Wednesday, July 27, 2016



DEVELOPMENT AGREEMENT  
*Land Titles Act, S.N.B. 1981, c.L-1.1, s.24*

Parcel Identifier  
of Parcel Burdened by Agreement:  
**PID 30246979**

**ORIGINAL**

BETWEEN:

**Brett Taylor (TBA - Insert Corporate Name)**

14 Wiltshire Drive

Quispamsis, NB E2E 0E9

A body corporate, in the Province of New Brunswick

(Hereinafter called the "Developer")

OF THE FIRST PART

- And -

**Rothesay**

70 Hampton Road

Rothesay, New Brunswick, E2E 5L5

A municipal body corporate, in the Province of New Brunswick (Hereinafter called the "Town")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 104 Hampton Road PID 30246979 and which said lands are more particularly described in **Schedule A** hereto (hereinafter called the "Lands");

AND WHEREAS Rothesay did on **(INSERT DATE)** authorize the Mayor and Clerk to enter into the agreement with **Brett Taylor** for the development of two apartment buildings at 104 Hampton Road (PID 30246979) the "Lands" pursuant to the provisions of the *Community Planning Act*.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that for and in the consideration of the previous agreements and mutual covenants and agreements herein expressed and contained, the parties hereto covenant and agree as follows:

1. The number of apartment buildings situated on the Lands indicated on **Schedule B** shall not exceed two;
2. The maximum number of apartment units shall not exceed 35 units; and
3. The minimum number of parking lot spaces shall not be less than 44 spaces.

**Schedules**

4. The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, is generally in conformance with the following Schedules attached to this Agreement:
  - a) Schedule A Property Description
  - b) Schedule B Proposed Site Plan
  - c) Schedule C Proposed Storm Water Management Plan
  - d) Schedule D Proposed Architectural Renderings



**ORIGINAL**

**Site Development**

5. The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, is generally in conformance with this Agreement.
  - a. Maximum density shall not exceed two apartment buildings containing not more than 35 apartment units and be located on the property generally as described on **Schedule A**.
6. The Developer expressly agrees and understands that notwithstanding any provision of the Town's Building By-Laws or any statutory by-law or regulatory provision to the contrary, the Building Inspector shall not issue a building permit to the Property Owner for work directly connected with the development of the Lands, nor shall the Property Owner be entitled to such a permit unless and until the Development Officer has approved the Site Plan submitted as part of the Development Permit process illustrating the precise size, location and configuration of the proposed building(s).
7. The Developer expressly agrees and understands that excepting as otherwise provided for herein, the development, subdivision and use of the Lands shall comply with the requirements of the Rothesay Zoning By-law 2-10 as may be amended from time to time.

**Architectural Guidelines**

8. The Developer agrees that an objective of this development is to provide a high quality and visually attractive development which exhibits an architectural design that reinforces the character complement existing housing and to be generally consistent with the existing styles of Rothesay. The Developer agrees to ensure the following:
  - a. The architectural design of the buildings shall be, in the opinion of the Development Officer, generally in conformance with **Schedule D**.
  - b. The building plans shall have similar features, such as roof lines, facade articulation (projections/recesses), fenestration, primary exterior wall colour or materials or roof colour, etc.
  - c. The building facades shall include design elements, finishing materials and variations that will reduce any perceived mass and linearity of large buildings and add architectural interest
  - d. The building design should reflect the use of appropriate high quality materials and architectural expressions to reduce the impact of height, bulk and density on adjacent lower density development and contributes to the visual enhancement of the area.
  - e. All ventilation and related mechanical equipment, including roof mechanical units, shall be concealed by screening in a manner compatible with the architectural character of the building, or concealed by incorporating it within the building framework.

**Stormwater Management**

9. The Developer agrees that Final Occupancy of the proposed buildings, as required in the Building By-law, shall not occur until the storm water management plan as attached in **Schedule C** of this agreement has been completed to the satisfaction of the Town's Director of Operations.

10. The Developer agrees to provide to the Director of Operations written Certification from a qualified professional engineer licensed to practice in the Province New Brunswick, that the storm water system and works have been satisfactorily completed and constructed to control the storm water in compliance with Schedule "D" – Storm water Standards of Rothesay Zoning By-law No. 02-10 as may be amended from time to time.

### **Landscaping**

11. The Developer agrees that a detailed landscaping plan shall be submitted in accordance **prior to the approval of any development permit**. This plan shall include pedestrian connections and fencing details, exterior lighting and street furniture elements, pedestrian seating areas, varied sizes and location and species of new plantings for the site, and including special treatment to clearly delineate pedestrian linkages from the building to Hampton Road.

### **Security & Occupancy**

12. The Town and Developer agree that Final Occupancy of the proposed apartment building(s), as required in the Building By-law, shall not occur until all conditions above have been met to the satisfaction of the Development Officer.
13. Notwithstanding Part 10 of this Agreement, the Town agrees that the Occupancy Permit may be issued provided the Developer supplies a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The security deposit shall comply with the following conditions:
  - a. security in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank dispensed to and in favour of Rothesay;
  - b. the Developer agrees that if the landscaping or storm water works are not completed within a period not exceeding six (6) months from the date of issuance of the Occupancy Permit, the Town may use the security to complete the landscaping works as set out in **PART 10** this Agreement;
  - c. the Developer agrees to reimburse the Town for 100% of all costs exceeding the security necessary to complete the landscaping works as set out in **PART 10** this Agreement; and
  - d. the Town agrees that the security or unused portion of the security shall be returned to the Developer upon certification that the work has been completed and acceptable to the Development Officer.

### **Indemnification**

14. The Developer does hereby indemnify and save harmless the Town from all manner of claims or actions by third parties arising out of the work performed hereunder, and the Developer shall file with the Town prior to the commencement of any work hereunder a certificate of insurance naming the Town as co-insured evidencing a policy of comprehensive general liability coverage on "an occurrence basis" and containing a cross-liability clause which policy has a limit of not less than Two Million

Dollars (\$2,000,000.<sup>00</sup>). The aforesaid certificate must provide that the coverage shall stay in force and not be amended, cancelled or allowed to lapse within thirty (30) days prior to notice in writing being given to the Town. The aforesaid insurance coverage must remain in full force and effect during the period available to the Developer pursuant to this agreement to complete the work set out as described in this Agreement.

**Notice**

15. Any notice or advice which is to be given under this Agreement shall be deemed to have been satisfactorily given to the Developer if delivered personally or by prepaid mail addressed to **BRETT TAYLOR 14 WILTSHIRE DRIVE, QUISPAMIS, NEW BRUNSWICK E2E 0E9** and to the Town if delivered personally or by prepaid mail addressed to ROTHESAY, 70 HAMPTON ROAD, ROTHESAY, NEW BRUNSWICK, E2E 5L5. In the event of notice by prepaid mail, the notice will be deemed to have been received four (4) days following its posting.

**By-laws**

16. The Developer agrees to be bound by and to act in accordance with the By-laws of the Town and such other laws and regulations that apply or may apply in future to the site and to activities carried out thereon.

**Termination**

17. The Town reserves the right and the Developer agrees that the Town has the right to terminate this Agreement without compensation to the Developer if the specific proposal has not been completed satisfactorily such that the written certifications contemplated in this agreement could reasonably be issued within sixty (60) months of the execution of this Agreement.
18. If the Town terminates this Agreement, the Developer agrees that the Town may call the Letter of Credit described herein and apply the proceeds to the cost of completing the work or portions thereof as outlined in the agreement. If there are amounts remaining after the completion of the work in accordance with this agreement, the remainder of the proceeds shall be returned to the Institution issuing the Letter of Credit. If the proceeds of the Letter of Credit are insufficient to compensate the Town for the costs of completing the work mentioned in this agreement, the Developer shall promptly on receipt of an invoice pay to the Town the amounts required to complete the work.

**Entire Agreement**

19. This Agreement contains the whole agreement between the parties hereto as regards the lands outlined in the plan hereto annexed.

**Severability**

20. If any paragraph or part of this agreement is found to be illegal or beyond the power of the Town Council to execute, such paragraph or part or item shall be deemed to be severable and all other paragraphs or parts of this agreement shall be deemed to be separate and independent therefrom and to be agreed as such.

**Reasonableness**

21. Both parties agree to act reasonably in connection with any matter, action, decision, comment or approval required or contemplated under

ORIGINAL

this Agreement.

**Registration**

22. A copy of this Agreement and every amendment and/or discharge of this Agreement shall be recorded at the Land Registry Office, in Hampton, New Brunswick and the Developer shall incur all costs in recording such documents.

**Subsequent Owners**

23. This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which is the subject of this Agreement until this Agreement is discharged by Council.
24. 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).

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**IN WITNESS HEREOF** the parties have duly executed these presents the day and year first above written.

Date: \_\_\_\_\_, 2016

Witness:

Brett Taylor

\_\_\_\_\_

\_\_\_\_\_

**PRESIDENT**

Witness:

Rothesay:

\_\_\_\_\_

\_\_\_\_\_

Mayor

\_\_\_\_\_

\_\_\_\_\_

Clerk

**SCHEDULE A – PROPERTY DESCRIPTION**

<b>PID:</b>	30246979
<b>Apparent Parcel Access:</b>	Public Access
<b>Status:</b>	Current
<b>Effective Date/Time:</b>	2007-07-13 14:19:53
<b>Page:</b>	1
<b>Legal Description:</b>	<p>PARCEL 1 That Parcel of Land located in the Parish of Rothesay, Town of Rothesay, County of Kings, bounded and described as follows: Beginning at a point on the Hampton Road at the dividing line of lands now owned or formerly owned by Gordon Elsworth Lindsay and lands formerly owned by Catherine M. McCarthy, now owned by E. Lowe thence running along said line in an easterly direction one hundred and ninety-five (195) feet; thence at right angles running in a southerly direction one hundred (100) feet to an iron stake; thence running in a westerly direction one hundred and ninety-five (195) feet or until it strikes the bounds of the said Hampton Road and preserving the one hundred (100) feet in breadth throughout; thence following the bounds of the said Hampton road in a northerly direction one hundred (100) feet to the place of beginning. Said description contained in a Deed to Lyman B. Burhoe and Evelyn Agnes Burhoe registered June 18, 1962, Kings County, in Book 102, page 313, as Number 16352. PARCEL 2 That Parcel of Land located in the Parish of Rothesay, Town of Rothesay, County of Kings, bounded and described as follows: Beginning at the Northwestern point at the intersection of the Burhoe &amp; Lowe property going in a Southeasterly direction approximately Two Hundred and Five (205) feet or until it reaches the Daniel and Mary Humphrey property, as indicated on Plan of Survey Showing Boundary Confirmation between Daniel and Mary Humphrey Property and Richard and Beverley Burhoe Property registered Kings County as Plan # 20460086; thence Southwardly along the said line Two Hundred and Seventy-one (271) feet, eight (8) inches more or less; thence Westwardly One Hundred and fifty-Nine (150) feet, two (2) inches or until it reaches the Saunders property; thence Northeastwardly Eighty-three (83) feet to the Northeastern Corner of Lot 95-1 as indicated on Plan of Survey , Amending Subdivision Plan, Kennebecasis Drugs, registered Kings Count as Plan # 200838; thence westwardly One Hundred and Sixty Five (165) feet along the Northern boundary of the said Lot 95-1 until it reaches the George Lindsay property; thence Northeasterly approximately Two Hundred and Twelve (212) feet, Five (5) inches more or less to the place of beginning. This improved description intending to be the description contained in a Deed to Lyman B. Burhoe and Evelyn Agnes Burhoe registered June 18, 1962, Kings County, in Book 102, page 313, as Number 126352.</p>

**SCHEDULE B – SITE PLAN**

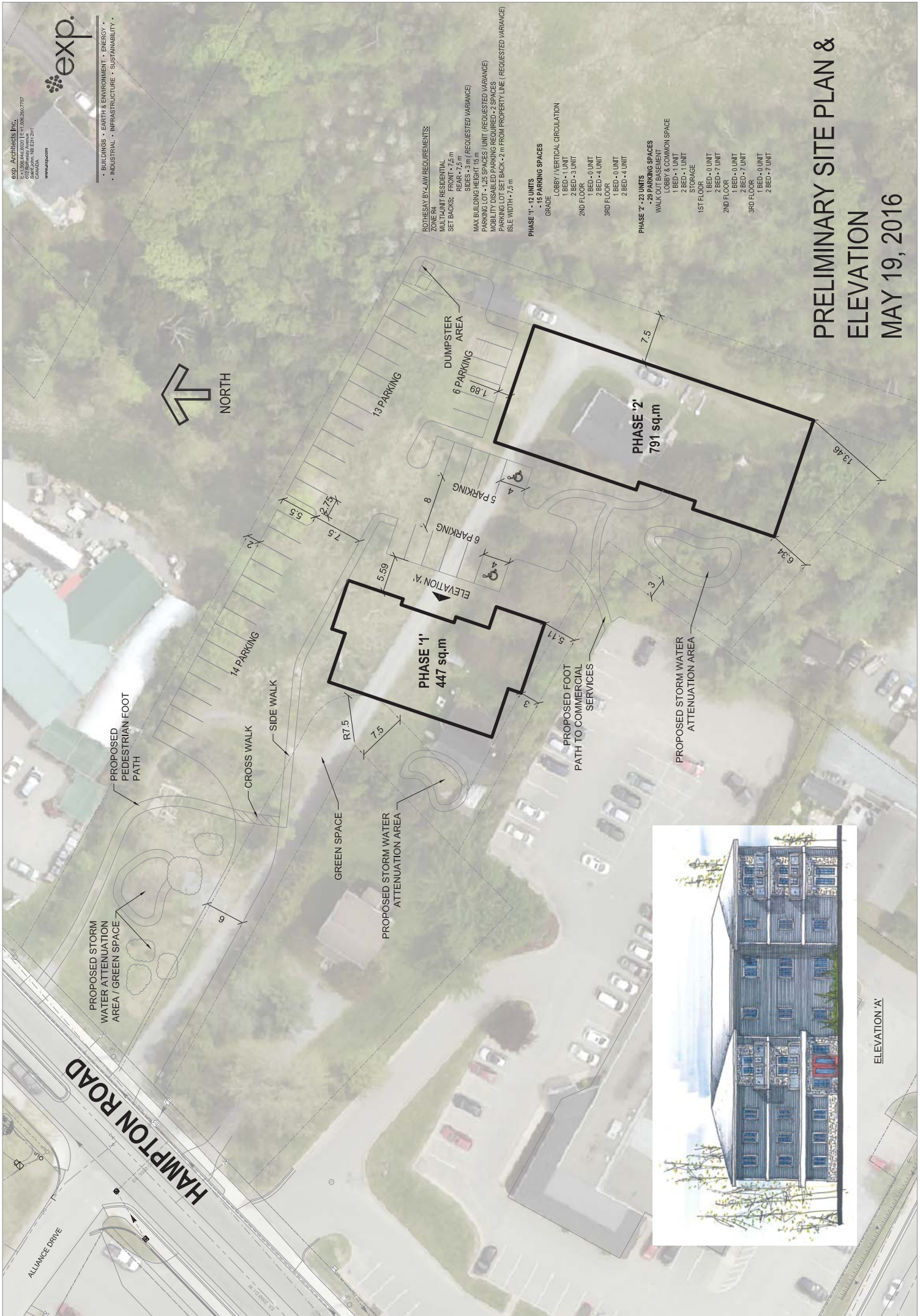
**ORIGINAL**

**SCHEDULE C – STORM WATER MANAGEMENT PLAN**

**SCHEDULE D – ARCHITECTURAL RENDERINGS**

**exp.**  
 BUILDINGS • EARTH & ENVIRONMENT • ENERGY •  
 INDUSTRIAL • INFRASTRUCTURE • SUSTAINABILITY •

**BXL Architects Inc.**  
 1000 WOODBINE RD. #1500  
 SCARBOROUGH, ONTARIO M1S 1W1  
 TEL: 416-291-7777  
 WWW.BXLARCHITECTS.COM



**ROTHESAY BY-LAW REQUIREMENTS:**  
 ZONE: R1  
 MULTIFAMILY RESIDENTIAL  
 SET BACKS: 4.5 m  
 REAR: 7.5 m  
 SIDES: 3 m (REQUESTED VARIANCE)  
 MAX BUILDING HEIGHT: 15 m  
 PARKING LOT: 125 SPACES UNIT (REQUESTED VARIANCE)  
 MOBILITY DISABLED PARKING REQUIRED: 2 SPACES  
 PARKING LOT SET BACK: 2 m FROM PROPERTY LINE (REQUESTED VARIANCE)  
 ISLE WIDTH: 7.5 m

**PHASE 1' - 12 UNITS**  
 GRABBAR  
 LOBBY / VERTICAL CIRCULATION  
 1 BED - 1 UNIT  
 2 BED - 3 UNIT  
 2ND FLOOR  
 1 BED - 0 UNIT  
 2 BED - 4 UNIT  
 3RD FLOOR  
 1 BED - 0 UNIT  
 2 BED - 4 UNIT

**PHASE 2' - 23 UNITS**  
 WALK OUT BASEMENT  
 LOBBY / COMMON SPACE  
 1 BED - 1 UNIT  
 2 BED - 1 UNIT  
 STORAGE  
 1ST FLOOR  
 1 BED - 0 UNIT  
 2 BED - 7 UNIT  
 2ND FLOOR  
 1 BED - 0 UNIT  
 2 BED - 7 UNIT  
 3RD FLOOR  
 1 BED - 0 UNIT  
 2 BED - 7 UNIT

**PRELIMINARY SITE PLAN &  
 ELEVATION  
 MAY 19, 2016**



ELEVATION 'A'



**ORIGINAL**

**SCHEDULE D – ARCHITECTURAL RENDERINGS**

Phase 1

12 unit Building Front Facade



Phase 2

Front Elevation 23 Unit Building



Phase 2

Rear Elevation 23 Unit Building

104 Hampton Road

Form 45  
AFFIDAVIT OF CORPORATE EXECUTION  
Land Titles Act, S.N.B. 1981, c.L-1.1, s.55

Deponent: **BRETT TAYLOR COMPANY**  
**Brett Taylor**  
17 Crosswind Crescent  
Rothesay, New Brunswick  
E2E 0P6

Office Held by Deponent: **President**

Corporation: **Brett Taylor**

Place of Execution: Rothesay, Province of New Brunswick.

Date of Execution: \_\_\_\_\_, 2016.

I, **BRETT TAYLOR**, the deponent, make oath and say:

1. That I hold the office specified above in the corporation specified above, and am authorized to make this affidavit and have personal knowledge of the matters hereinafter deposed to;
2. That the attached instrument was executed by me as the officer(s) duly authorized to execute the instrument on behalf of the corporation;
3. The signature "**BRETT TAYLOR**" subscribed to the within instrument is the signature of me and is in the proper handwriting of me, this deponent.
4. The Seal affixed to the foregoing indenture is the official seal of the said Corporation was so affixed by order of the Board of Directors of the Corporation to and for the uses and purposes therein expressed and contained;
5. That the instrument was executed at the place and on the date specified above;

DECLARED TO at Rothesay,  
in the County of Kings, )  
and Province of New Brunswick, )  
This \_\_\_ day of \_\_\_\_\_, 2016. )

BEFORE ME: )  
)  
)  
\_\_\_\_\_)  
Commissioner of Oaths )

\_\_\_\_\_  
**BRETT TAYLOR**

Form 45  
AFFIDAVIT OF CORPORATE EXECUTION  
Land Titles Act, S.N.B. 1981, c.L-1.1, s.55

Deponent: **MARY JANE E. BANKS**  
Rothesay  
70 Hampton Road  
Rothesay, N.B.  
E2E 5L5

Office Held by Deponent: Clerk

Corporation: **Rothesay**

Other Officer Who Executed the Instrument: **NANCY E. GRANT**  
Rothesay  
70 Hampton Road  
Rothesay, N.B.  
E2E 5L5

Office Held by Other Officer Who Executed the Instrument: **MAYOR**

Place of Execution: Rothesay, Province of New Brunswick.

Date of Execution: \_\_\_\_\_, 2016.

I, **MARY JANE E. BANKS**, the deponent, make oath and say:

1. That I hold the office specified above in the corporation specified above, and am authorized to make this affidavit and have personal knowledge of the matters hereinafter deposed to;
6. That the attached instrument was executed by me and **NANCY E. GRANT**, the other officer specified above, as the officer(s) duly authorized to execute the instrument on behalf of the corporation;
7. The signature "**NANCY E. GRANT**" subscribed to the within instrument is the signature of Nancy E. Grant, who is the Mayor of the town of Rothesay, and the signature "**Mary Jane E. Banks**" subscribed to the within instrument as Clerk is the signature of me and is in the proper handwriting of me, this deponent, and was hereto subscribed pursuant to resolution of the Council of the said Town to and for the uses and purposes therein expressed and contained;
8. The Seal affixed to the foregoing indenture is the official seal of the said Town and was so affixed by order of the Council of the said Town, to and for the uses and purposes therein expressed and contained;
9. That the instrument was executed at the place and on the date specified above;

DECLARED TO at town of  
Rothesay, in the County of Kings, )  
and Province of New Brunswick, )  
This \_\_\_ day of \_\_\_\_\_, 2016. )

BEFORE ME: )  
)  
)  
\_\_\_\_\_)  
Commissioner of Oaths )

\_\_\_\_\_  
**MARY JANE E. BANKS**

ORIGINAL



**BY-LAW 2-10-26  
A BY-LAW TO AMEND THE ZONING BY-LAW  
(No.2-10 Rothesay)**

The Council of the town of Rothesay, under authority vested in it by Sections 34 and 74 of the Community Planning Act, R.S.N.B. (1973) Chapter C-12, and amendments thereto, hereby amends By-Law 2-10 "Rothesay Zoning By-law" and enacts as follows:

That Schedule A, entitled "Zoning" as attached to By-Law 2-10 "ROTHESAY ZONING BY-LAW" is hereby amended, as identified on the attached sketch, identified as Attachment "2-10-26".

The purpose of the amendment is to consider the rezoning of lands located at 104 Hampton Road (PID 30246979) from Central Commercial (CC) to Multi-Unit Residential (R4) to allow for the development of two apartment buildings pursuant to the execution of a Development Agreement in accordance with Section 39 and Section 101 of the Community Planning Act, supra.

FIRST READING BY TITLE :  
SECOND READING BY TITLE :  
READ IN ENTIRETY :  
THIRD READING BY TITLE  
AND ENACTED :

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK



Attachment - Bylaw 2-10-26  
Subject Property - PID: 30246979

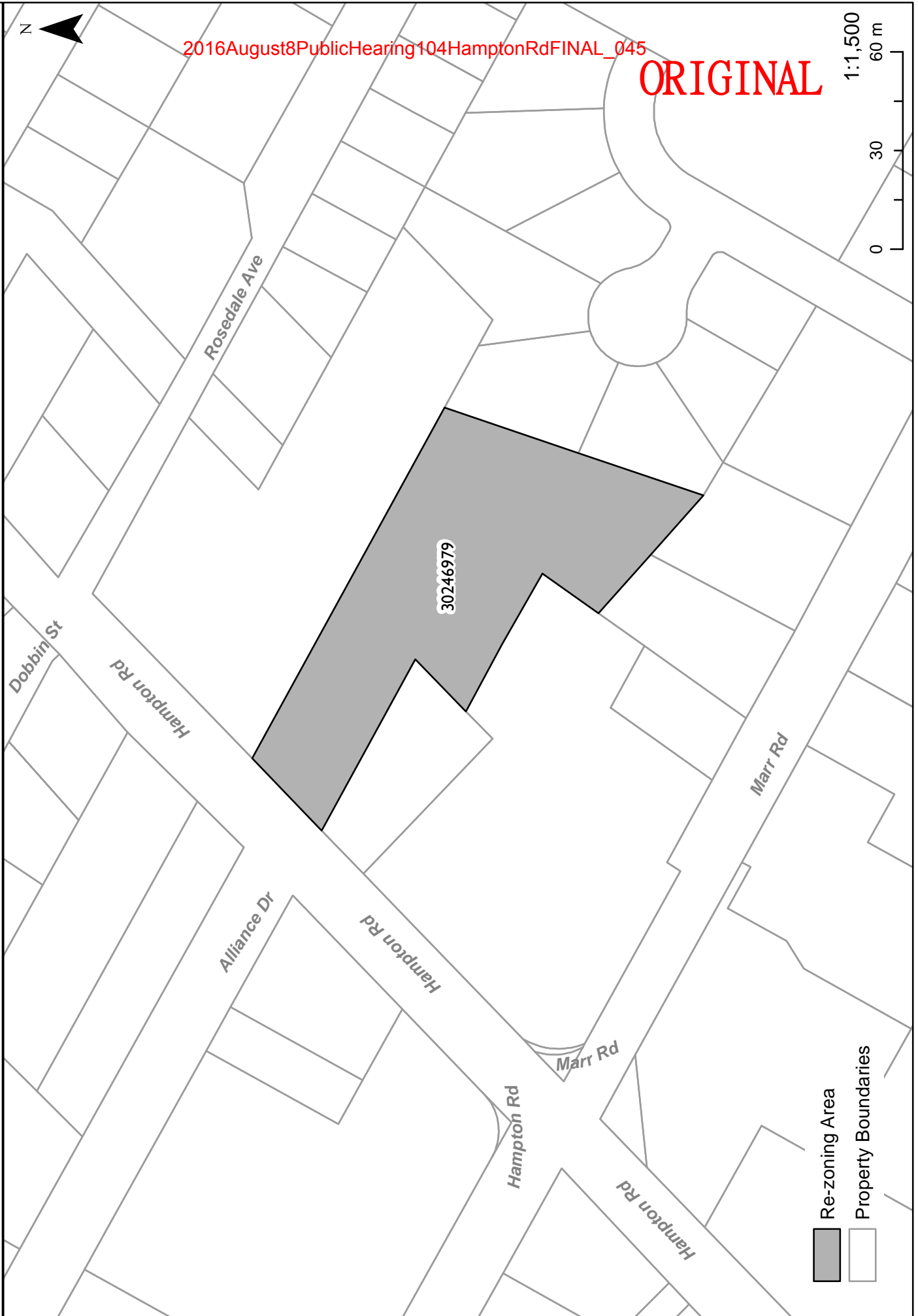
Date: 22/06/2016



2016August8PublicHearing104HamptonRdFINAL\_045

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1:1,500



-  Re-zoning Area
-  Property Boundaries

# 104 Hampton Road

Rezoning and Development Proposal

Brett Taylor

Aug 2, 2016

2016August8PublicHearing104HamptonRdFINAL\_047



# Residential benefits at 104

- Green space on Hampton Road
- Improved balance to commercial properties
- No commercial signage
- Security to neighboring commercial areas
- Reduced traffic compared to commercial dev.
- Reduced impact to neighboring residential - Victoria Gardens, Harris and Robichaud property
- Increased customer base to support local businesses
- Increased municipal revenue from tax, water and sanitary services



# Development proposal

- Two phase project including one 12 unit apartment building as phase 1 followed by one 23 unit apartment building as phase 2
- Focused primarily on the over 55 market
- Primarily large 2 bedroom units with higher end amenities
- Excellent location for this market



HAMPTON ROAD

PROPOSED STORM WATER ATTENUATION AREA / GREEN SPACE

PROPOSED PEDESTRIAN FOOT PATH

CROSS WALK

SIDE WALK

GREEN SPACE

PROPOSED STORM WATER ATTENUATION AREA

PHASE '1'  
447 sq.m

PROPOSED FOOT PATH TO COMMERCIAL SERVICES

PROPOSED STORM WATER ATTENUATION AREA

PHASE '2'  
791 sq.m

- SUBSIDIARY LAW REQUIREMENTS**  
 ZONE R4  
 MULTI-UNIT RESIDENTIAL  
 SET BACKS: FRONT - 7.5 m  
 SIDE - 7.5 m  
 REAR - 3 m (REQUESTED VARIANCE)  
 MAX BUILDING HEIGHT 15 m  
 PARKING LOT: 1.25 SPACES / UNIT (REQUESTED VARIANCE)  
 MOBILITY (DISABLED) PARKING REQUIRED: 2 SPACES  
 PARKING LOT SET BACK - 2 m FROM PROPERTY LINE (REQUESTED VARIANCE)  
 ISLE WIDTH - 7.5 m

- PHASE '1' - 12 UNITS**  
 GRADE  
 LOBBY / VERTICAL CIRCULATION  
 1 BED - 1 UNIT  
 2 BED - 3 UNIT  
 2ND FLOOR  
 1 BED - 3 UNIT  
 2 BED - 4 UNIT  
 3RD FLOOR  
 1 BED - 3 UNIT  
 2 BED - 4 UNIT

- PHASE '2' - 15 UNITS**  
 > 20 PARKING SPACES  
 WALK OUT GARAGE/STORAGE  
 LOBBY & COMMON SPACE  
 1 BED - 1 UNIT  
 2 BED - 1 UNIT  
 STORAGE  
 1ST FLOOR  
 1 BED - 5 UNIT  
 2 BED - 7 UNIT  
 2ND FLOOR  
 1 BED - 5 UNIT  
 2 BED - 7 UNIT  
 3RD FLOOR  
 1 BED - 5 UNIT  
 2 BED - 7 UNIT

PRELIMINARY SITE PLAN  
 MAY 17, 2016



PRELIMINARY ELEVATION 'A'  
(PHASE 1)



Phase 2  
Front Elevation 23 Unit Building  
104 Hampton Road



Phase 2  
Rear Elevation 23 Unit Building  
104 Hampton Road

# 104 Hampton Road



# Non-Owner Process Challenge

- Town preference to develop first
  - plan,(architecture, site plan, storm water plan, landscape plan, service plan, development agreement etc.), then rezone, purchase, build
- Challenge to me as the developer
  - as a contingent buyer, the cost of the planning phase can be lost with a failed rezoning application - lost value, lost investment, no property purchase, no development.
  - reset/restart with new property search

# Storm Water Management

- This is a known topic of sensitivity due to existing stormwater issues in Rothesay.
- New upgraded By-Law prevents negligent and substandard stormwater systems for new development:
  - requiring net zero stormwater impact post development for up to 100 yr storms.
  - must be designed by NB licensed Engineer and also approved by both the DOP and Town Engineer for final approval.



# Current proposal

- Proposed site plan has 3 designated areas reserved for storm water management.
- Engineering consultants will design a storm water management system to meet or exceed the new By-Law requirements

# My Request for Storm water design

- Prepare and submit a formal storm water design plan after completing the rezoning and resulting purchase of the property.
- Have the development agreement clearly state that all stormwater management plans and design must be approved prior to issuing a building permit.
- Benefits - developer will be accountable for a design that meets the most current up to date storm water By-Law with the security of property ownership.

**Thank you!**

**Questions?**