

M E M O

TO: Peter Kelly CAO

DATE: June 11, 2021

FROM: Laurel Palmer Thompson RPP, MCIP RE: Signing of Development Agreement PID #390559,
3900534 and 390542

Please find attached the Development Agreement dated April 15, 2021 and signed by the representatives of Pan American Properties Inc. The agreement was approved by resolution of Council on November 9, 2020.

I am satisfied that all the terms and conditions, as required by Section 42 Comprehensive Development Area Zone of the Zoning and Development Bylaw have been addressed in the Development Agreement (attached).

I would therefore recommend the City of Charlottetown sign the enclosed agreement.

Regards,



Laurel Palmer Thompson

Planner II

Fully Executed
14-June-2021
CAO signed
15-June-2021
Mayor signed

DEVELOPMENT AGREEMENT

THIS AGREEMENT made this 15th day of April, 2021

BETWEEN:

CITY OF CHARLOTTETOWN, a body corporate, duly incorporated under the laws of the Province of Prince Edward Island, with head office at Charlottetown, in Queens County, in the Province of Prince Edward Island;

(the "City")

OF THE FIRST PART

AND:

PAN AMERICAN PROPERTIES INC.,

(the "DEVELOPER")

OF THE SECOND PART

WHEREAS the Developer is proposing a development which involves a comprehensive development plan hereinafter referred to as the "Master Plan" to develop a mixed use development including multi-unit residential housing and supporting commercial/retail (as defined herein) on lands located on the corner of Towers Road and Mount Edward Road in the City of Charlottetown, being identified as Parcel #'s 390559, 390534 and 390542 (the three parcels of land being the "Property") and further outlined on the plan Schedule "A" annexed hereto (the "Development");

AND WHEREAS on or about December 14, 2020 the City approved certain amendments to the City's Official Plan and Zoning & Development Bylaw ("ZD Bylaw") including approval of a Development Concept Plan under section 42.2 in order to facilitate the Development;

AND WHEREAS pursuant to section 42.2.8 of the ZD Bylaw the Developer has requested minor amendments to the Development Concept Plan that do not change the approved intent of the use or Lot;

AND WHEREAS the City is satisfied that the proposed amended Development Concept Plan that does not change the approved intent of the use or Lot and comprises an improved townhouse configuration which amount of paving and new road construction,

and is a more sustainable and efficient plan that condenses the building footprints, adds more green space, and reduces road paving by up to twenty-five (25) percent;

AND WHEREAS the City and the Developer have agreed to enter into this Development Agreement in order to permit the Developer to build a mixed-use development including multi-unit residential housing and supporting commercial/retail in accordance with the Amended Development Concept Plan;

AND WHEREAS no building or development permit shall be issued until this Agreement has been executed by Pan American Properties Inc. and the City;

1. THE DEVELOPMENT

1.1 The Development comprises the intended development on the Property of approximately 13.6 total acres adjacent to Towers Road and Mount Edward Road.

1.2 The Development shall be carried out as per the Sherwood Crossing Site Plan and accompanying building concept drawings "Master Plan" dated September 10, 2020 and as presented at a Public Meeting of Council on August 26, 2020 together with the Amended Development Concept Plan as submitted to the City April 08, 2021 all of which is attached as Schedule "A" ("Master Plan") and comprises the intended construction on the Property of:

- a. One, four (4) story apartment building containing sixty (60) affordable housing units.
- b. Two, five (5) story apartment buildings containing eighty-eight (88) market units.
- c. One, five (5) story apartment building containing seventy-eight (78) market units.
- d. Seven, 2.5 story townhouse buildings containing a total of thirty-six (36) dwelling units.
- e. One, commercial health care facility.
- f. Outdoor green space, paths and connectors.
- g. Parking Areas consisting of both visitor and staff parking.
- h. Public and private streets as delineated in the Master Plan.

1.3 The 4 apartment buildings shall be a maximum of 5 stories with a maximum height of sixty (60) feet from average grade to the top parapet of the roof.
Townhouse dwellings shall be a maximum of 2.5 stories.

1.4 As per the Comprehensive Development Area Zone requirements Section 42.2.6 of the ZD Bylaw on November 9, 2020, Council granted approval of the Master Plan on the condition that the final architectural design drawings and working site plans for the development of the property are required to be delivered to the City

and re-submitted to the Planning Board and Council for review and recommendation to the Developer on any changes by the Developer(s) before final acceptance of the design drawings and working site plans by the City.

2. DEVELOPER'S COVENANTS

- 2.1 The Developer shall develop the Property as per the details provided in the Master Plan/concept drawings dated September 10, 2020 except as amended by the Amended Development Concept Plan submitted April 08, 2021 (See Schedule "A").
- 2.2 Professionally designed and stamped architectural and engineering building plans, site plan, landscaping plan, site servicing plan and storm drainage plan (the "Plans") must be submitted by the Developer and approved by the City before a building permit will be issued. Specifically, the Plans shall meet the requirements of the City's *Zoning and Development Bylaw, National Building Code, Building Code Bylaw, Fire Prevention Bylaw and Tree Protection Bylaw*. The parties agree that the submission and approval of the Plans may be done in phases.
- 2.3 It is agreed by the parties that the green space as shown on the Master Plan will be used for recreational uses for the development's tenants with passive activities such as; walking paths, connectors to the Confederation Trail, gardens, seating areas and buffers along the trail.
- 2.4 The Developer shall enter into a Roads and Services Agreement for the portion of public road to connect this development to Spencer Drive.
- 2.5 The developer shall deed to the City the future sixty (60) foot public road corridor as shown on the north boundary of the "Preliminary Survey Plan" prepared by ISE Drawing Number 19393-1, dated March 16, 2021 at no cost to the City prior to the issuance of any building and development permits.
- 2.6 Prior to construction of any access to the Property the Developer shall submit a survey plan showing final driveway locations. The driveway locations shall be approved by Public Works prior to issuance of any building permits.
- 2.7 If subdivision approval is sought, then a final plan(s) of subdivision must be approved by the City and each individual lot must have frontage on a public street.
- 2.8 The Developer shall provide where required to the City a Survey Plan and eight (8) copies of the pinned survey plan showing the appropriate dimensions of any easements for servicing (sewer, water, storm sewer etc.) the Property and this may also include electrical, phone and communications easements.

- 2.9 The approved "Master Plan" shows the property developed as one contiguous property under the three existing parcels PID #'s 390559, 390534 and 390542. A plan of consolidation for these three parcels shall be submitted and approved by the City. If the land is to be re-subdivided into more than one lot in the future The Developer agrees that under the ZD Bylaw they are required to provide 10 % cash-in-lieu of recreation land or a portion of land equal to 10% of the Property. This land shall be acceptable to the City and shall be conveyed with no conditions or restrictions attached and shall be zoned by the City as Open Space according to the Bylaw for future use.
- 2.10 The developer is responsible for managing any noise generated through construction activity. Such activity is to occur within normal working hours as set out in the City's Nuisance Bylaw; and shall implement all reasonable measures to minimize the occurrence of obnoxious noise during and after construction.
- 2.11 The site design shall include appropriate drop off and pick up areas for pedestrians, vehicles, delivery vehicles, transit, employees and guests to the buildings.
- 2.12 Solid waste pick up and management shall be planned and implemented as an integral part of the overall project and shall be processed so as not to interfere with pedestrians, parking and traffic.
- 2.13 All buildings are required to meet the parking requirements as set out in Section 43 of the ZD Bylaw.
- 2.14 A parking area shall be designated on the developer's land for construction workers associated with the job site. Parking shall not be permitted along the street or on private property unless permission has been granted by a property owner.
- 2.15 For any work related to the Development that takes place on or near public City streets or sidewalks, the Developer or its contractor(s) shall provide a plan showing the proposed construction safety procedures to be implemented to provide safety to the public and the environment, which plan shall be reviewed and approved in advance by the City. The City will be consulted and permission for any sidewalk or street closures sought during construction.
- 2.16 The street shall be kept clean from soil and mud generated from construction activity. The Developer is responsible for the cost of cleaning and removing any dirt, mud and debris generated from construction of the development. The street shall be cleaned at the end of each day should such materials be present on the street. Prior to the City issuing a building permit for construction of any building the Developer shall provide proof to the City that a contractor has been retained to maintain regular cleaning of the street.
- 2.17 All work related to connecting to and extension of City services (sanitary sewer, water and storm sewer and streets) is the responsibility of the Developer at their

cost. The Developer may, at its cost, relocate the existing sanitary sewer line running through the Property to a location under the City's public streets. Such relocation to be carried out subject to approval by the City.

- 2.18 Any damage to the City's municipal services (i.e. streets, sidewalks, sewer & water) shall be remediated by the Developer and/or its contractor(s). The City will be consulted and the nature and extent of any proposed reasonably required remediation shall be subject to approval by the City.

3. AMENDMENTS

- 3.1 Where it is deemed material by the City, any proposed changes or alterations to the agreed building use or to any of the Plans shown in Schedules "A" shall necessitate an amendment to this Agreement and must first be approved by the City in writing by way of an Addendum to this Agreement.
- 3.2 Subject to Section 4 of this Agreement, the reasonable decision of the Chief Administrative Officer or other designate of the City, as to whether the proposed changes or alterations to the agreed building use or to any of the Plans is material or as to whether the Development conforms to or with the terms of this Agreement and the annexed Plans shall be conclusive and final.

4. DISPUTE RESOLUTION – NEGOTIATION, MEDIATION AND ARBITRATION

- 4.1 The parties agree to negotiate all matters or disputes arising out of this Agreement reasonably, in good faith and with a view to reaching a mutually satisfactory agreement. Each party shall make full, frank and open disclosure of any and all documents within its possession, custody or control as may be necessary to secure a negotiated solution to any dispute arising under this Agreement.
- 4.2 Where agreement on any matter cannot be reached by negotiation, the parties may either retain a mutually acceptable mediator to assist them in reaching an agreement or shall arbitrate their dispute as provided in Section 4.3.
- 4.3 If negotiation and mediation do not resolve the differences between the parties, then any matters in dispute between the parties in relation to this Agreement shall be referred to arbitration before a single arbitrator, if the parties agree upon one within three (3) working days. This time may be extended by mutual written agreement. Otherwise, the dispute shall be submitted to three (3) arbitrators. One arbitrator is to be appointed by the City and one arbitrator is to be appointed by the Developer, within three (3) working days of receiving notice in writing by the other (who shall simultaneously name their nominee) to do so. The third arbitrator, who shall be the chairperson, shall be chosen by the first two named, within three (3) working days after their selection. If a party fails to select its

nominee within three (3) working days of receiving notice to do so in writing, then the matter shall revert to being heard by the one (1) arbitrator appointed by the party first requesting the other to name their nominee. The award and determination of the arbitrator or arbitrators, or any two of the three arbitrators, shall be rendered within thirty (30) days (or such longer time as may mutually be agreed upon) after selection of the sole arbitrator or Chairperson. The award shall be final and binding upon the parties and their respective successors and assigns.

5. COSTS

- 5.1 The Developer agrees to pay for all reasonable legal costs and expenses incurred by the City in the preparation of this Agreement including registration of this Agreement on title of those lands shown in Schedule "A".

6. INDEMNITY

- 6.1 The Developer shall at all times indemnify and save harmless the City from and against all claims, demands, loss, costs, damages, actions, suits or other proceedings by whomever made, sustained, brought or prosecuted to the extent that the foregoing are based upon, occasioned by or attributable to any wrongful act done or omitted by the Developer, its servants or its agents or employees in the fulfillment of any of its obligations under this Agreement.

7. GENERAL

- 7.1 It is agreed the provisions of this Agreement are severable from one another and that the invalidity of one provision shall not prejudice the validity or enforcement of any other provision.
- 7.2 The continued operation of the Development shall comply with all applicable Federal, Provincial and Municipal laws, by-laws, and regulations.
- 7.3 If, after two (2) years of the date of this Agreement, no development and/or building permit(s) have been issued or the Development or building permit has not been acted upon (construction has not commenced and continued) this Agreement shall be renegotiated.

8. HEIRS, SUCCESSORS AND ASSIGNS

- 8.1 This Agreement shall be binding upon the parties hereto, their, successors, heirs and assigns and shall be registered on title and run with and burden the land as

described in Schedule "A" and the Development which is the subject of this Agreement.

IN WITNESS THEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written.

SEALED, DELIVERED and ATTESTED
by the proper signing officer(s)
in the presence of:

Witness


Tracey McLean
Commissioner of Deeds
Province of Prince Edward Island

CITY OF CHARLOTTETOWN

Per:


Mayor

Per:


CAO

SEALED, DELIVERED and ATTESTED
by the proper signing officer(s)

in the presence of


Ellen Faye G. Catane
Commissioner of Deeds
Province of Prince Edward Island

PAN AMERICAN PROPERTIES INC.

Per:


Tim Banks, CEO

SITEPLAN - NOT TO SCALE

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SP1

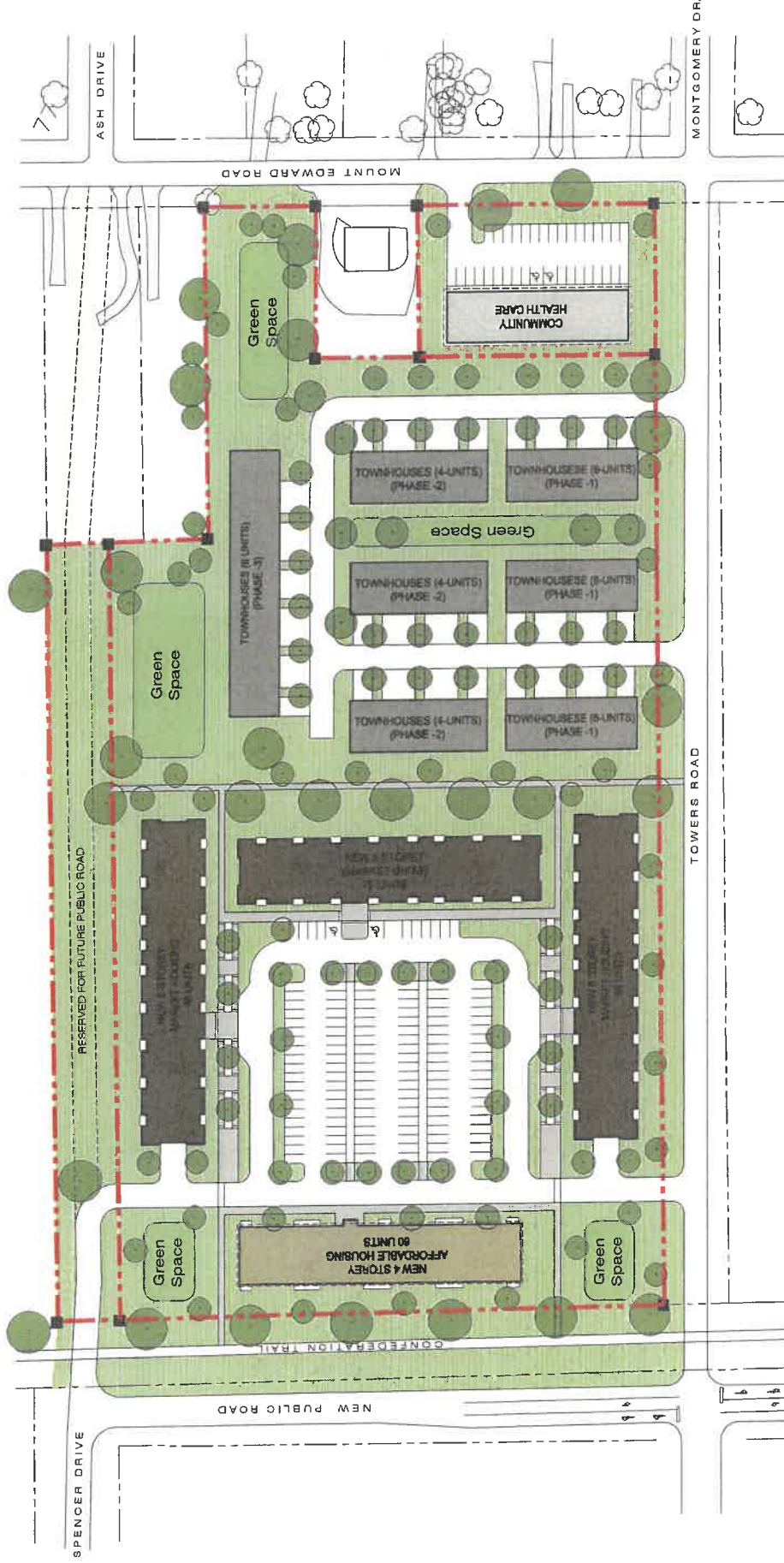
SHERWOOD CROSSING

Charlottetown, PE - Sept 10, 2020

Concept Plan September 10,
2020



Schedule "A"



SITEPLAN - NOT TO SCALE

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SP1

SHERWOOD CROSSING

Charlottetown, PE - April 08, 2021

AB

Concept Plan April 08, 2021

Amended



NOT TO BE USED FOR LEGAL DESCRIPTIONS
AT-P-OVAL S.I.V.I.P

DATE: MARCH 16, 2021

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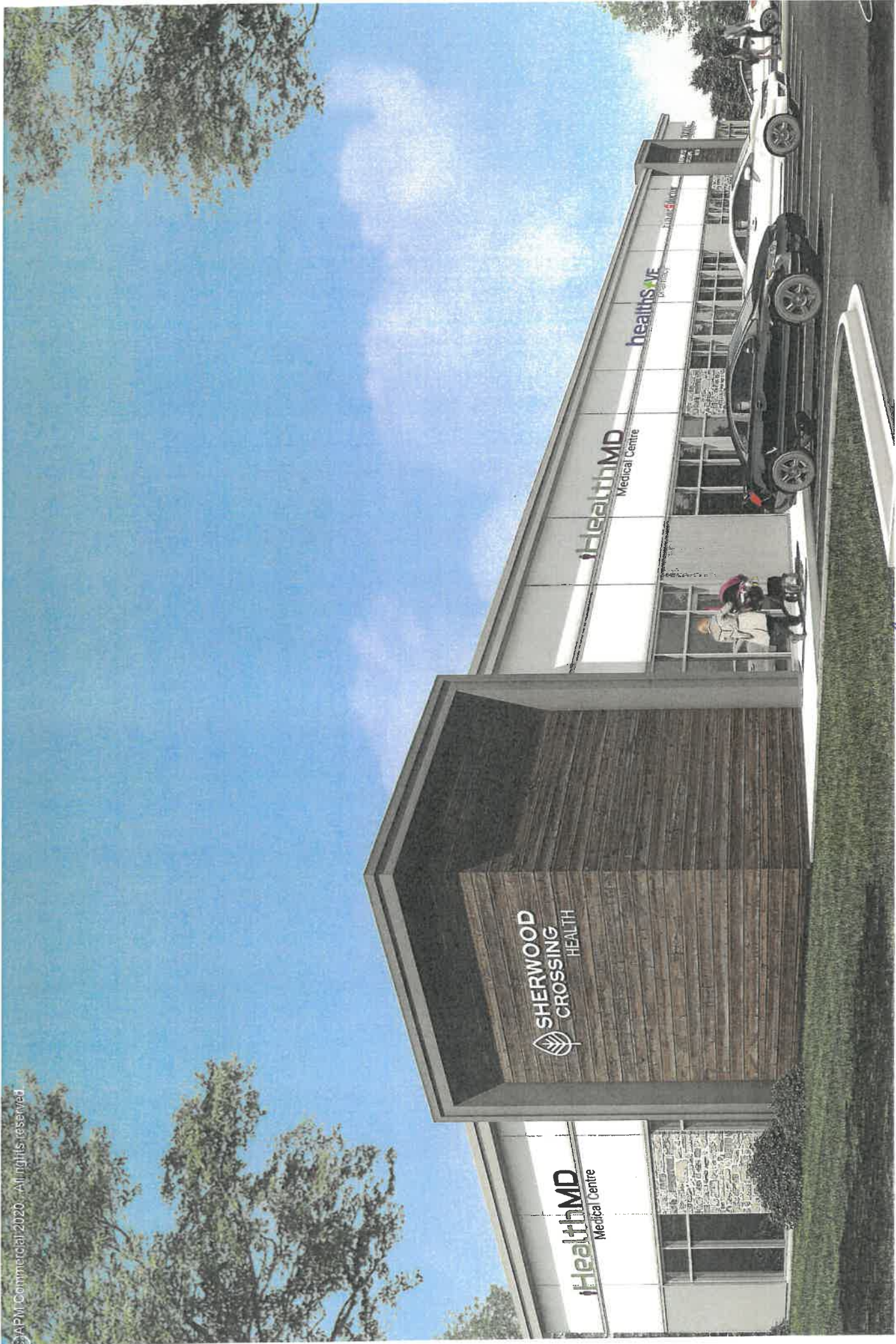
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SHERWOOD
CROSSING
HEALTH

HealthMD
Medical Centre

healthcare
partners

HealthMD
Medical Centre

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DATED this day of April, 2021 A.D.

BETWEEN:

CITY OF CHARLOTTETOWN
(the "City")

OF THE FIRST PART

AND:

PAN AMERICAN PROPERTIES INC.
(the "Developer")

OF THE SECOND PART

DEVELOPMENT AGREEMENT
