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PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Harbour East Community Council
November 12th, 2009

TO: Chairman and Members of Harbour East Community Council

SUBMITTED BY: 
Sean Audas - Development Officer

DATE: November 5th, 2009

SUBJECT: Appeal of the Development Officers decision to refuse a Variance application at 230 Brownlow Avenue, Dartmouth.

ORIGIN

This report deals with an appeal of the Development Officers decision to refuse a variance for the street line set back of a ground sign at 230 Brownlow Avenue, Dartmouth.

RECOMMENDATION

It is recommended that Council uphold the Development Officers decision to refuse the variance.

BACKGROUND

The property is zoned I-2 Zone - General Industrial Zone under the Land Use By-Law for Dartmouth.

Proposed Use:

The property contains an existing commercial/office building. An application was received to install a ground sign on the property for the existing building. Upon review of the application it was disclosed, and confirmed through a site visit, that the ground sign was installed prior to receiving approval. The sign was located approximately 1-1.23 meters from the front property line (or street line as defined in Section 32E(21) of the Dartmouth Land Use By-Law). If the variance was approved at the current set-back, the ground sign is 3.37 - 3.6 meters closer to the front property line than permitted. The required setback is 4.6 meters.

DISCUSSION

The *Halifax Regional Municipality Charter* sets out criteria in part 250 (3) under which the Development Officer may consider variances to Land Use By-law requirements. The criteria are as follows:

“A variance may not be granted where the:

- (a) variance violates the intent of the land use bylaw;*
- (b) difficulty experienced is general to the properties in the area;*
- (c) difficulty experienced results from an intentional disregard for the requirements of the land use bylaw.”*

In order to be approved, the proposed variance must not conflict with any of the above statutory criteria. An assessment of the proposal relative to these stipulations is set out below.

Does the proposed variance violate the intent of the land use bylaw ?

- The Land Use Bylaw requires that an application be submitted for each sign. Included in these standards are the set-back requirements for a ground sign.
- The required setback is listed in Section 32E(21) at 4.6 meters from the street-line.
- The “street line” is defined in Section 32E(21) as ... “the street line shall be the boundary of the street right-of-way whether or not it is improved as a street or sidewalk.”
- While this requirement was not addressed in the refusal letter upon further consideration it is felt that the application violates the intent of the Land Use By-law because the sign was constructed 3.37-3.6 meters closer to the street line than what permitted.

Is the difficulty experienced general to the properties in the area ?

- The properties in this area are of various sizes and shapes. The buildings range in size from mall plazas to office buildings.
- The application was assessed under this section of the Halifax Charter and did not breach the criteria.

Does the difficulty experienced results from an intentional disregard for the requirements of the land use bylaw?

- The ground sign was erected at a set-back of 1-1.23 meters from the street line, not meeting the minimum requirements of the Land Use By-Law. This sign was installed without a permit and not meeting the minimum setback requirements.
- Whereas, the sign was installed without a permit along with not meeting the setback requirement it is felt that this results in intentional disregard for the requirements of the Land Use By-Law

In summary, staff carefully reviewed all the relevant information in this case. As a result of that review, the variance was refused and notification sent in accordance with the provisions of the Halifax Regional Municipality Charter (Attachment 3)

An appeal letter was received (Attachment 4). In this letter the owner of the property indicates that the sign location was approved with the plans for the building, permit #87512. The permit was issued for the project on October 25, 2007. The plan that is referenced in the appeal letter #1001, site servicing and grading was revised on November 10, 2008 (Attachment 6). This plan was submitted after the permit was issued as a occupancy permit requirement. The original site servicing and grading plan, dated August 7, 2007 (Attachment 5) does not show a sign base. It appears the sign base was added to plan #1001 after the permit was issued and the building was under construction. This plan modification is required for final servicing of Municipal record drawings. The modifications noted on the plan were for "final services record", no mention of a sign location was included. The Municipality did not issue a permit for a ground sign and any sign should not have been installed without a permit to ensure the location meets the minimum setback requirements.

BUDGET IMPLICATIONS

None

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Council could uphold the decision of the Development Officer to refuse the variance. This is the recommended alternative.

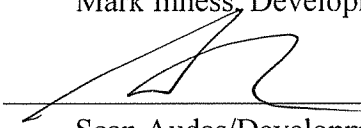
2. Council could overturn the decision of the Development Officer and approve the variance request.

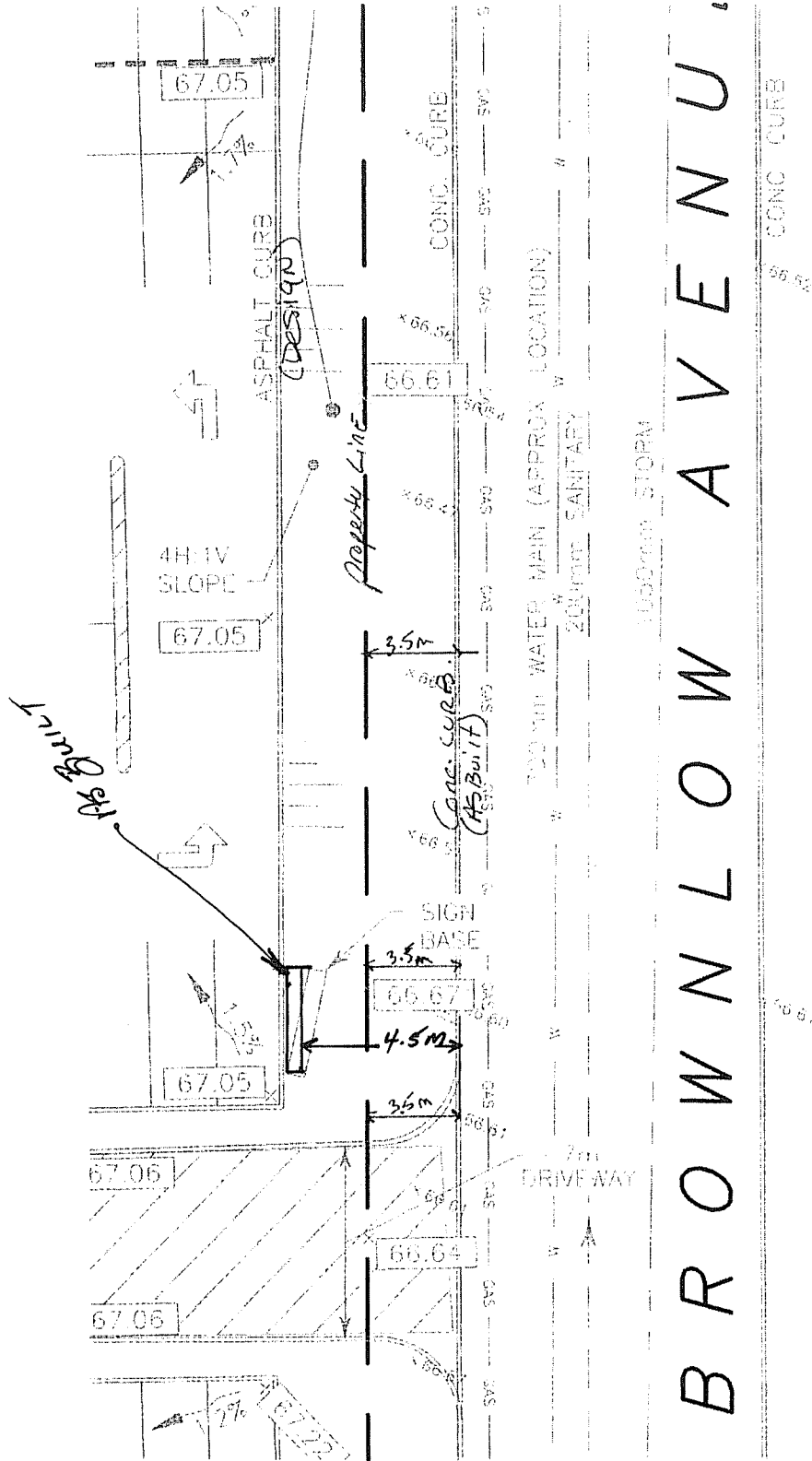
ATTACHMENTS

1. Site plan
2. Location Map
3. Refusal Letter
4. Appeal Letter
5. Site Servicing and Grading Plan dated August 7, 2007
6. Site Servicing and Grading Plan dated November 10, 2008

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Mark Inness, Development Technician 490-6257

Report Approved by: 
Sean Audas/Development Officer/490-4341



B R O W N L O W A V E N U E

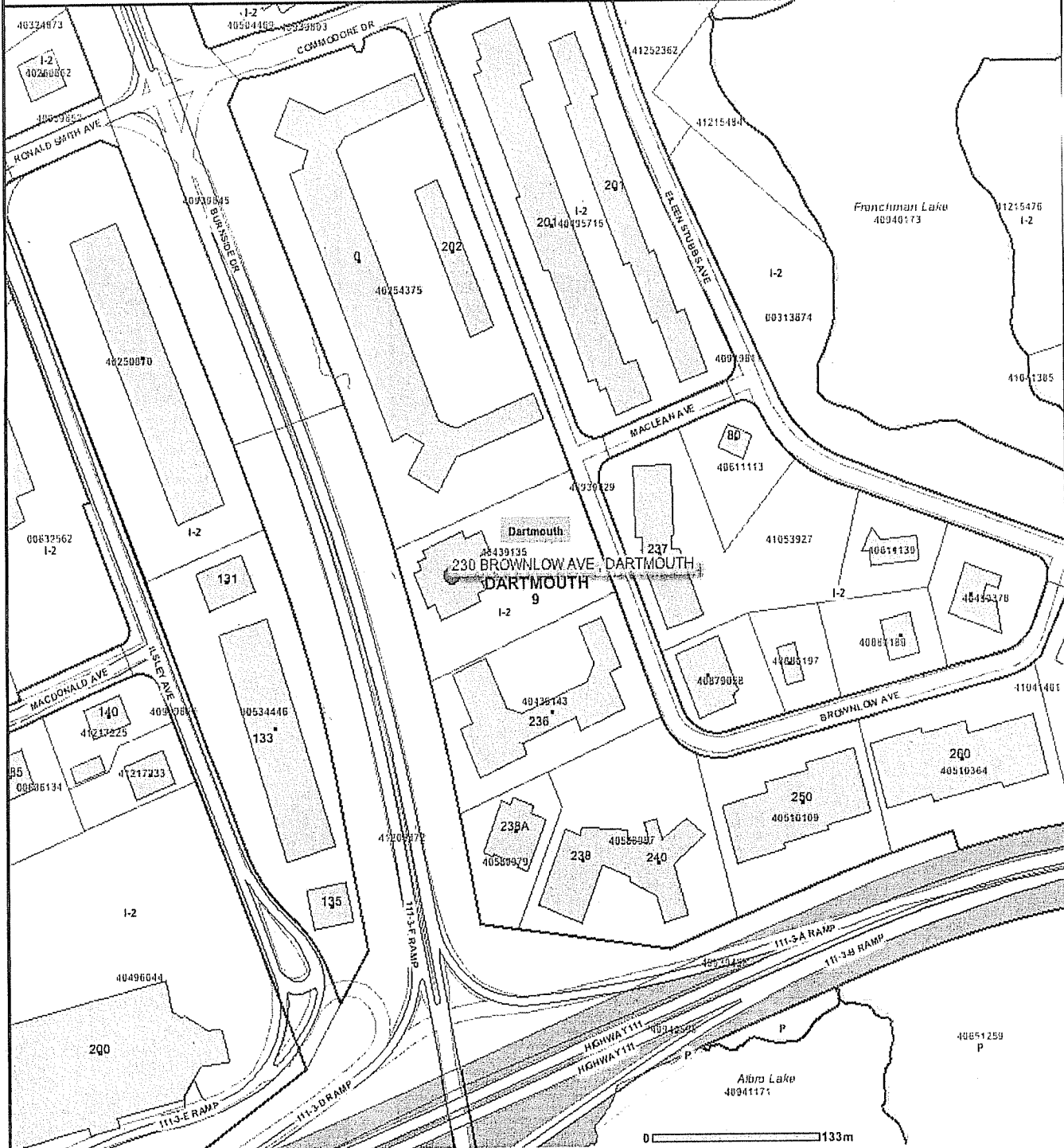
PARKplace
 Buildings,
 DARTMOUTH

DATE
 Aug 5/09

HRM does not guarantee the accuracy of any base information.

Attachment 1 Site Plan

Attachment #2: Location Map



This map was prepared for the internal use of Halifax Regional Municipality(HRM) HRM takes no responsibility for errors or omissions For further information on Street Name or Community(GSA) data please contact HRM Civic Addressing at 490-5347 or email civicadd@halifax.ca Date of map is not indicative of the date of data creation

Attachment 3: Refusal Letter



COMMUNITY DEVELOPMENT - EASTERN REGION

September 24th, 2009.

George Brown
c/o Mattatall Signs Limited
80 Hsley Avenue
Dartmouth, NS
B3B-1L3

COPY

Dear Mr. Brown,

RE: Application for Variance - 15596 - 230 Brownlow Avenue

This will advise that the Development Officer for the Halifax Regional Municipality has refused your request for a variance from the requirements of the Land Use Bylaw for **Dartmouth** as follows:

Location: 230 Brownlow Avenue
Project Proposal: Install Ground Sign
Variance Requested: Reduce the set-back from the street line.

Section 250(3) of the **Halifax Regional Municipality Charter** states that:

No variance shall be granted where:

- (a) the variance violates the intent of the Land Use Bylaw;**
- (b) the difficulty experienced is general to properties in the area; or**
- (c) the difficulty experienced results from the intentional disregard for the requirements of the Land Use Bylaw.**

It is the opinion of the Development Officer that the difficulty experienced results from the intentional disregard for the requirements of the Land Use Bylaw, the ground sign was installed without permit approval and does not meet the required set-back of 4.6 m from the street line.

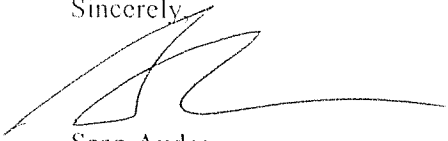
Pursuant to Section 251(4) of the **Halifax Regional Municipality Charter** you have the right to appeal the decision of the Development Officer to the Municipal Council. The appeal must be in writing, stating the grounds of the appeal, and be directed to:

**Municipal Clerk
c/o Sean Audas, Development Officer
Halifax Regional Municipality
Development Services - Eastern Region
P.O. Box 1749
Halifax, NS B3J 3A5**

Your appeal must be filed on or before October 6th, 2009.

If you have any questions or require additional information, please contact this office a 490-4341.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sean Audas', with a long horizontal stroke extending to the right.

Sean Audas
Development Officer

cc. Municipal Clerk
Councillor Jim Smith, District 09



Attachment 4: Appeal Letter

October 6, 2009

Via Mail & Fax: 490-4661

Municipal Clerk
c/o Sean Audas, Development Officer
Halifax Regional Municipality
Development Services – Eastern Region
40 Alderney Dr., 2nd Floor
P.O. Box 1749
Halifax, NS B3J 3A5

Dear Municipal Clerk,

**RE: Application for Variance – 15596
230 Brownlow Ave., Dartmouth, NS**

We hereby wish to appeal the Decision of the Development Officer regarding the above referenced Application.

We take issue with the suggestion that in erecting the sign base there was intentional disregard for the requirements of the Land Use Bylaw. Our decision to install the sign base was based upon the fact that we had obtained a Building Permit to develop this site. The Drawings submitted were dated 7/7/25 and were approved resulting in the issuance of Building Permit #87512, dated October 25, 2007. Drawing 1001 – Site Services and Grading Plan was part of the submission and the location of the sign base is clearly indicated on this Plan.

Accordingly we proceeded to install the base and required electrical as shown on the approved Plan.

Please reconsider the Decision with respect to this sign.

Yours truly,

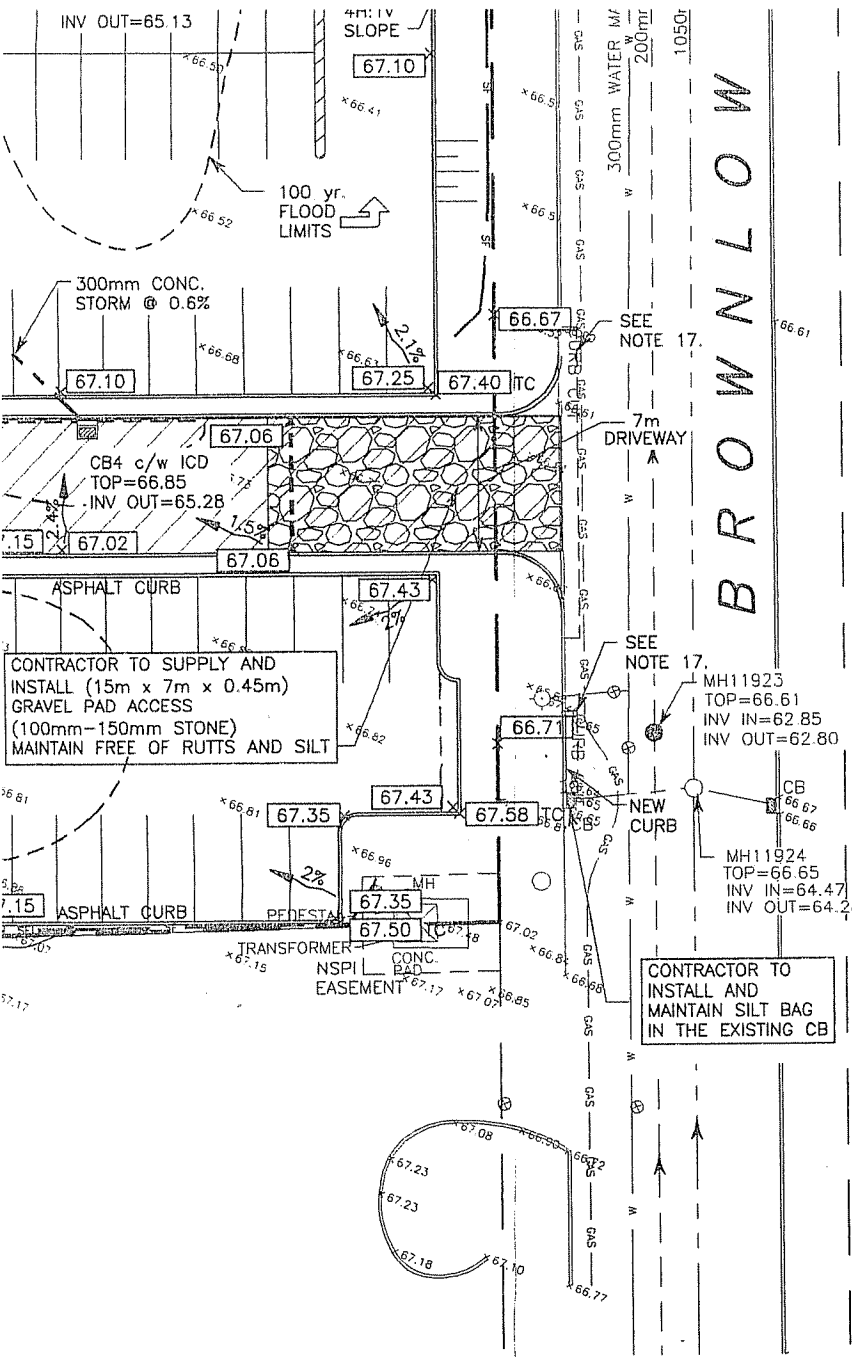
A handwritten signature in cursive script, appearing to read "Gordon Parsons".

Gordon Parsons, P.Eng.

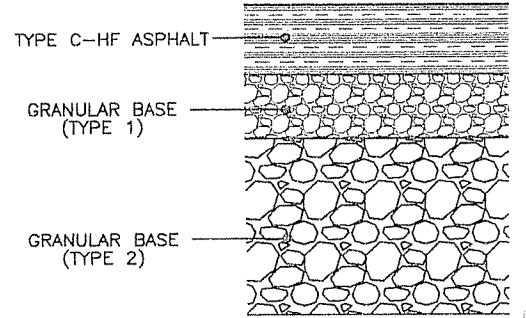
VP & Chief Operating Officer
GP/cb

cc-George Brown, Mattatall Signs
cc-Councillor Jim Smith, District 9

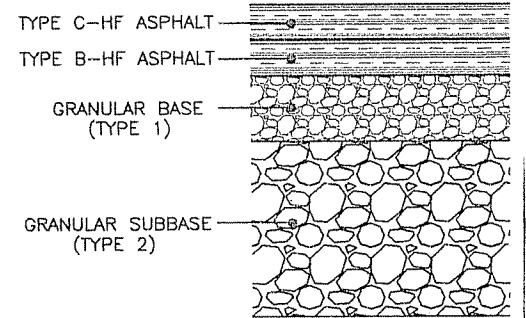
Attachment 5: August 7th, 2007 Site Servicing and Grading Plan



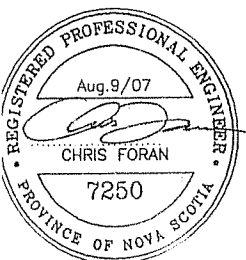
- DRIVEWAY RAMP
- CONCRETE CURB AND GUTTER
- CURB PAYMENT DETAIL
- NEW DRIVEWAY ACCESS IN EXISTING FULL DEPTH CURB
- HALIFAX REGIONAL WATER COMMISSION STANDARD DETAIL
- TYPICAL TRENCH DETAIL
- TYPICAL DOMESTIC & SPRINKLER CONNECTIONS
- TYPICAL ZINC ANODE INSTALLATION
- VALVE CLOSING DIRECTION
- CONCRETE THRUST BLOCKS



STANDARD ASPHALT
N.T.S.



HEAVY DUTY ASPHALT
N.T.S.



No.	REVISION	BY	DATE
	ISSUED FOR REVIEW	R.L.	7/7/20
1	ISSUED FOR PERMIT	R.L.	7/7/25
2	REVISED FOR PERMIT	R.L.	7/8/02
3	REVISED FOR PERMIT	R.L.	7/8/07

PARK PLACE V
DARTMOUTH, NOVA SCOTIA

SITE SE
AND GRAI

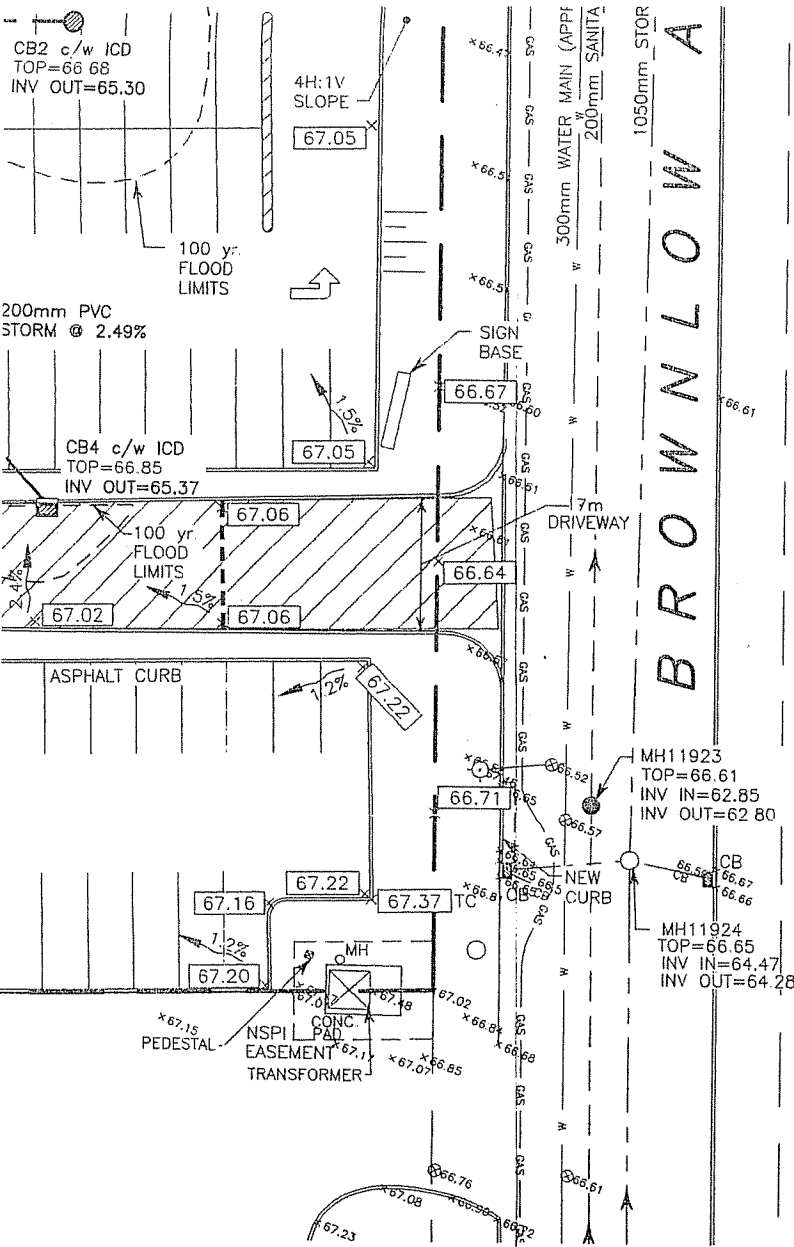
JOB 25726 DATE AUGUST 7, 2007

ARMOUR GROUP LIMITED

10

DWN S.T. CHK R.L.

Attachment 6: November 10th, 2008 Site Servicing and Grading Plan



- (see NSDUE Erosion and Sedimentation Control Handbook for const sites). Excavation dewatering to municipal storm sewer systems n adhere to HRM By-law W-101.
- Elevations are Geodetic (meters) and established based on NSCM elevation = 68.375m.
 - Sanitary service to have minimum of 2% slope or as noted.
 - Elevations and grading shall be confirmed by the contractor prior construction.
 - All construction activities must be scheduled to minimize service/p access interruption.
 - The proposed sanitary & storm sewer, manholes and catch basins installed as per HRM standards. Sewer manholes shall be precast diameter or as required by manufacture c/w benching and IMP R1 & covers. Catch basin to be 1050mm diameter c/w IMP S401 fr grate or approved equal.
 - Contractor shall notify SDMM 48 hours prior to the start of constr schedule required inspection and data collection to prepare record water, storm and sanitary services.
 - All work shall be completed in accordance with Nova Scotia regula HRM By-Laws and HRM Municipal Service Systems "Red Book".
 - This drawing shall be read in conjunction with architectural, structu mechanical and electrical drawings. Any discrepancies must be br the engineer's attention immediately.
 - Exterior grades around building to be sloped at a minimum of 2% from building or as noted.
 - New 100mm domestic water service and 200mm sprinkler service t be installed with a minimum of 1.6m of cover. Contractor to follow the latest HRWC standard specifications (2007) for installation deta
 - Contractor to contact utility companies (Aliant, ATT, NSPI, Heritage to confirm if any underground services exist in the vicinity of prop work prior to excavation.
 - Contractor to saw cut existing asphalt and reinstate adjacent to ne driveway entrance and/or curb as per HRM detail 7.02640.01. Re of existing asphalt thickness, contractor to reinstate asphalt with a 100mm asphalt thickness.
 - New fire hydrant shall be painted safety yellow.
 - Contractor to supply, install and maintain silt bags in all the new basins.
 - Site Contractors are reminded that this s a Leed Project and must forms as per Section 01362 and adhere to Section 01355 "Constr Waste Management"

HALIFAX REGIONAL MUNICIPALITY STANDARD DETAILS	
TRENCH & BACKFILL CROSS SECTION	3.0
PRECAST MANHOLE	3.0
MANHOLE FRAME AND COVER	3.0
PRECAST CATCH BASIN	5.0
DRIVEWAY DEFLECTION ANGLES AND GRADES	7.0
ASPHALT CONCRETE PAVEMENT PATCHING	7.0
DRIVEWAY RAMP	8.0
CONCRETE CURB AND GUTTER	8.0
CURB PAYMENT DETAIL	8.0
NEW DRIVEWAY ACCESS IN EXISTING FULL DEPTH CURB	8.0
HALIFAX REGIONAL WATER COMMISSION STANDARD DETAILS	
TYPICAL TRENCH DETAIL	23
TYPICAL DOMESTIC & SPRINKLER CONNECTIONS	23
TYPICAL ZINC ANODE INSTALLATION	23
VALVE CLOSING DIRECTION	24
CONCRETE THRUST BLOCKS	23

DATE	No.	REVISION	BY	DATE
7/7/20	7	REVISED PARKING/HYDRANT	R.L.	7/11/09
7/7/25	8	REVISED HYDRANT LOCATION	R.L.	8/03/19
7/8/02	9	SPRINKLER RECORD	R.L.	8/05/05
7/8/09	10	FINAL SERVICES RECORD	R.L.	8/11/10
7/8/16				
7/8/22				
7/8/28				

PARK PLACE V
 230 BROWNLOW AVENUE
 DARTMOUTH, NOVA SCOTIA

JOB 25726 DATE NOVEMBER 10, 2008

CLIENT
ARMOUR GROUP LIMITED

SITE SERVICING AND GRADING PLAN

1001

DWN S.S. CHK R.L. SCALE 1:30