

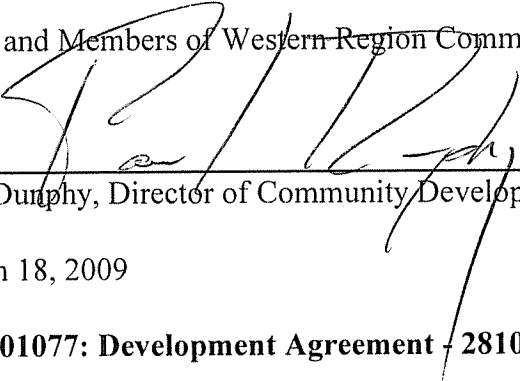


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Western Region Community Council
April 27, 2009

12.1

TO: Chair and Members of Western Region Community Council

SUBMITTED BY: 
Paul Murphy, Director of Community Development

DATE: March 18, 2009

SUBJECT: **Case 01077: Development Agreement - 2810 Prospect Road, Whites Lake**

ORIGIN

Application by the W.M. Fares Group to permit by development agreement a shopping centre at 2810 Prospect Road, Whites Lake.

RECOMMENDATION

It is recommended that Western Region Community Council:

1. Move Notice of Motion and schedule a public hearing to consider the proposed development agreement, as described in Attachment A of this report, to enable a shopping centre consisting of two buildings at 2810 Prospect Road, Whites Lake.
2. Approve the development agreement, as contained in Attachment A.
3. Require that the development agreement be signed and returned within 120 days, or any extension thereof granted by Community Council on request of the Developer, from the date of final approval by Community Council or any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

The subject site is located in Whites Lake along the Prospect Road and opposite from its intersection with Stoney Beach Road (see Map 1). It consists of a single, vacant parcel of land having 5.48 acres in area. Low density residential uses and vacant lands surround the site.

The applicant seeks approval of a development agreement to allow for the construction of two buildings on the subject property. The larger of the two buildings will be subdivided into a series of small shops serving various retail businesses, personal service shops, and medical clinic uses, while the smaller building will house a restaurant. A driveway located directly across from the Stoney Beach Road will provide access to the property.

DISCUSSION

Municipal Planning Strategy Policies

The subject property is located within the RA-3 (Residential A-3) Zone and is designated Residential A under the Generalized Future Land Use Map for Planning District 4 Municipal Planning Strategy (see Map 2). The current zoning regulations do not allow for the establishment of a shopping centre, however, Policy RA-9 of the Planning District 4 MPS states the following:

"Notwithstanding Policy RA-2, within the Residential A Designation, Council may consider permitting the development of a shopping centre on the lands of Food City Limited (LIMS No. 40471286) in accordance with the development agreement provisions of the *Planning Act*."

In considering a development agreement application under Policy RA-9, Council is directed to assess the proposal with regard to a specific set of criteria (see Attachment B). These evaluation criteria are mainly concerned with issues of compatibility with the surrounding neighbourhood, impacts on the existing road network, and the handling of stormwater runoff.

It is worth mentioning that Whites Lake has been identified as a growth centre under the Regional Plan.

Evaluation of Proposal and Development Agreement

Staff's assessment of this proposal against the MPS policies is outlined in Attachment B. The salient matters relate to stormwater management, impact on area wells, traffic impact, and permitted uses and hours of operation. These matters are addressed as follows.

Stormwater Management

Terrain Group prepared a preliminary stormwater management plan for the site that was reviewed and accepted by the Nova Scotia Department of Transportation and Infrastructure Renewal. The final stormwater management plan will limit the post development flow from the site to the pre development flow during a 1 in 100 year storm.

Impact on Area Wells

Strum Environmental was commissioned by the property owner to prepare a groundwater supply assessment for the subject site. The March 31, 2008 report did not indicate any immediate quantitative concern. However, it did recommend the completion of a Level II Assessment prior to development. This additional testing will help to determine long term safe yields, well separation distances, and influence on nearby wells. A clause is included in the draft development agreement to ensure that a Level II Groundwater Assessment will be completed prior to the issuance of a Construction Permit for any component of the development.

Traffic Impact

The W.M. Fares Group commissioned Atlantic Road & Traffic Management (ARTM) to prepare a traffic impact study to evaluate the impacts of site generated traffic on the Prospect Road and the Stoney Beach Road/site driveway intersection. In its report submitted to HRM and reviewed and accepted by the Nova Scotia Department of Transportation and Infrastructure Renewal, ARTM concluded that with the construction of a southbound left turn lane, trips generated by the proposed commercial development would not have any significant impact on the performance of the Prospect Road.

Permitted Uses and Hours of Operation

The draft development agreement allows up to 17 different establishments to occupy the lands in two separate buildings. Potential establishments will be limited to one or more of the following uses: convenience store, craft shop, medical clinic, office, personal service shop, restaurant, and retail store. However, only one drive-in restaurant will be permitted to operate on the lands at any given time.

The various establishments on the subject property will only be allowed to operate between the hours of 7:00 am and 12:00 am. Furthermore, deliveries to the buildings, as well as the collection of refuse, recycling, and composting materials from the lands, will be restricted to between the hours of 7:00 am and 8:00 pm.

Delay in Process

This application has been active since September of 2007. The delay in completing the application was mainly due to the time required to obtain the review and acceptance of the traffic impact study and the stormwater management plan from NS Transportation and Infrastructure Renewal. Under standard practice, when more than a year has lapsed since the last public meeting, staff would schedule a second meeting prior to proceeding to Council. However, proceeding to a second meeting was determined by staff not to be required and would create an unnecessary delay, as the proposal has remained unchanged since the last meeting.

Conclusion

The proposal satisfies the applicable policies (Attachment B) of the Planning District 4 Municipal Planning Strategy and as such, it is recommended that Western Region Community Council approve the attached development agreement.

Public Information Meeting / Area of Notification

A public information meeting for this application was held on November 28, 2007. Minutes of this meeting are provided in Attachment C of this report. Community attendees were mainly concerned with stormwater management, impact on area wells, the types of uses to be allowed on the subject property, and traffic impact. Should Community Council decide to hold a public hearing, in addition to published newspaper advertisements, property owners in the area shown on Map 1 will be sent written notification.

BUDGET IMPLICATIONS

There are no budget implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the approved budget with existing resources.

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. Community Council may choose to approve the entire development agreement, as contained in Attachment A. This is the recommended course of action.

2. Community Council may choose to alter the terms of the development agreement. This may necessitate further negotiations with the Developer, and may require an additional public hearing.
3. Community Council may choose to refuse the entire development agreement. Pursuant to Section 254(6) of the *Halifax Regional Municipality Charter*, Council must provide reasons for this refusal, based on the policies of the MPS.

ATTACHMENTS

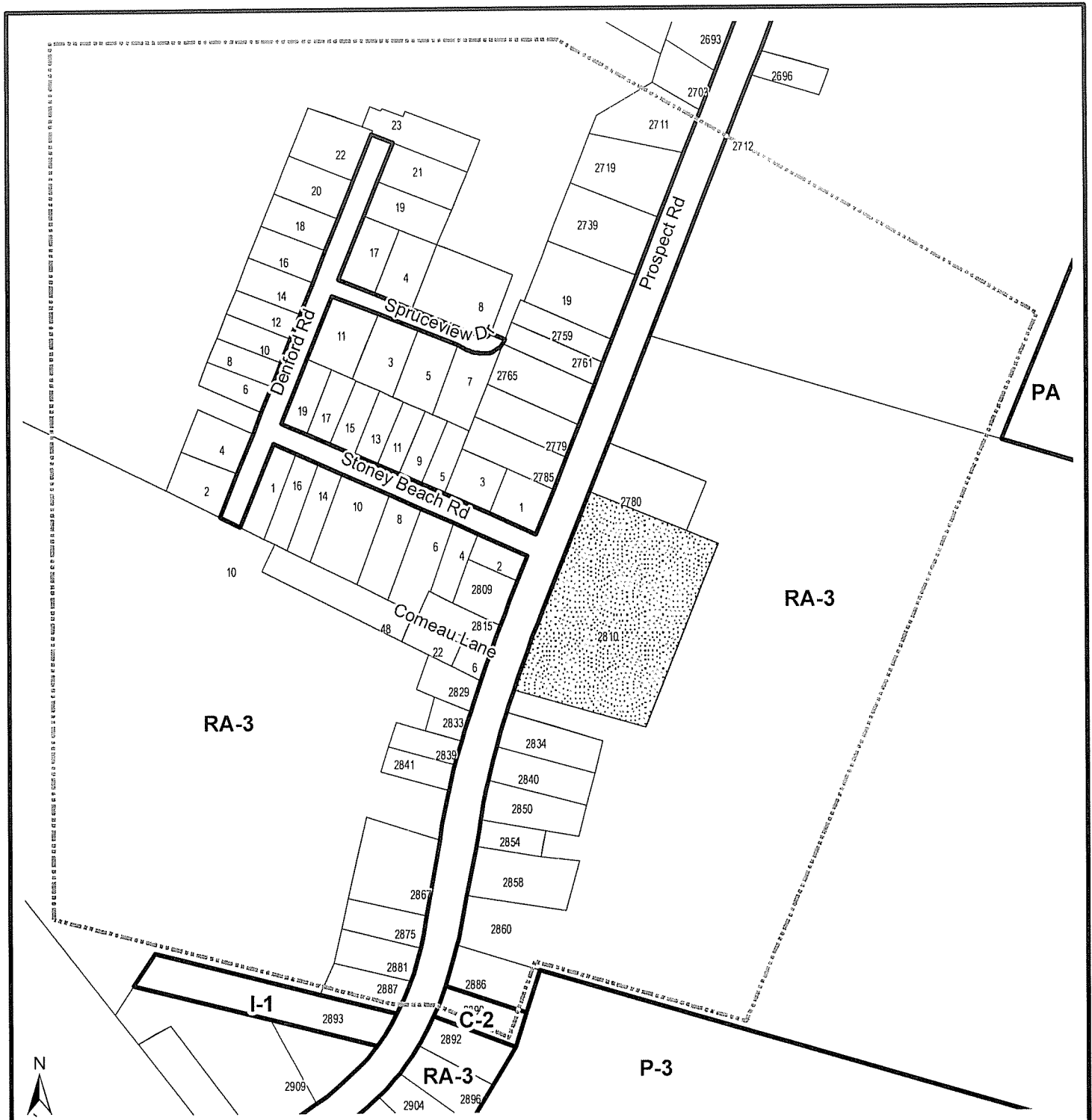
Map 1	Zoning and Notification
Map 2	Generalized Future Land Use
Attachment A	Draft Development Agreement
Attachment B	Review of Most Relevant Policies
Attachment C	Minutes from the November 28, 2007 Public Information Meeting

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

Report Prepared by : Luc Ouellet, Planner I, 490-3689

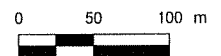




Report Approved by: Austin French, Manager of Planning Services, 490-6717



Map 1 - Location and Zoning

2810 Prospect Road
Whites Lake



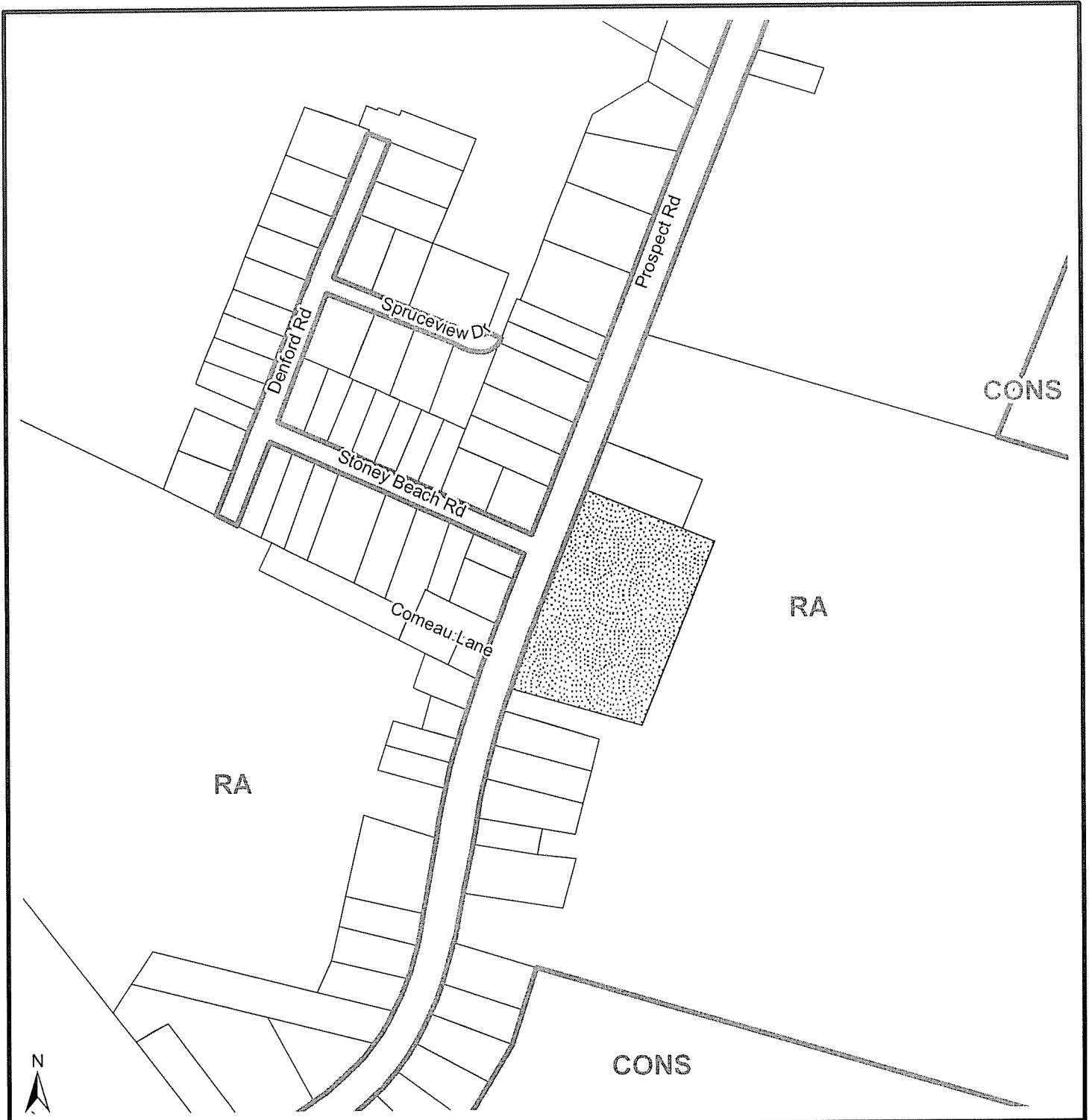
-  Subject area
-  Area of notification

Zone	
RA-3	Residential A-3
C-2	General Business
I-1	Light Industrial
P-3	Conservation
PA	Protected Area

Planning District 4
(Prospect) Plan Area


This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated

HRM does not guarantee the accuracy of any representation on this plan



Map 2 - Generalized Future Land Use

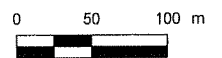
2810 Prospect Road
Whites Lake

 Subject area

Planning District 4
(Prospect) Plan Area

Designation

RA Residential "A"
CONS Conservation



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated

HRM does not guarantee the accuracy of any representation on this plan

1.2 Applicability of Land Use By-law and Subdivision By-law

Except as otherwise provided for herein, the development, subdivision and use of the Lands shall comply with the requirements of the Planning District 4 Land Use By-law and the Regional Subdivision By-law, as may be amended from time to time.

1.3 Applicability of Other By-laws, Statutes and Regulations

1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or lot owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.4 Conflict

1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.4.3 Where metric values conflict with imperial values within the written text of this Agreement, the imperial values shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

1.6 Provisions Severable

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law.

2.2 Definitions Specific to this Agreement

The following words used in this Agreement shall be defined as follows:

- (a) “Certified Arborist” means a professional, full member in good standing with the International Society of Arboriculture.
- (b) “Forester” means a professional, full member in good standing with the Registered Professional Foresters Association of Nova Scotia.
- (c) “Forestry Technician” means a professional, full member in good standing with the Nova Scotia Forest Technicians Association.
- (d) “Landscape Architect” means a professional, full member in good standing with the Canadian Society of Landscape Architects.
- (e) “Professional Engineer” means a professional, full member in good standing with the Association of Professional Engineers of Nova Scotia.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

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:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	Main Building Front Elevation
Schedule D	Main Building Rear Elevation
Schedule E	Main Building Side Elevation
Schedule F	Typical Retail Bay Enlargement
Schedule G	Preliminary Landscape Plan
Schedule H	Plant Schedule

3.2 General Description of Land Use

3.2.1 The Developer shall not develop or use the Lands for any purpose other than one or more of the following uses:

- (a) convenience store;
- (b) craft shop;
- (c) medical clinic;
- (d) office;
- (e) personal service shop;
- (f) restaurant; and,
- (g) retail store.

3.2.2 Notwithstanding Section 3.2.1, only one drive-in restaurant shall be permitted to operate on the Lands at any given time.

3.3 Detailed Provisions for Land Use

3.3.1 The Developer shall be permitted to construct two buildings on the Lands.

3.3.2 The larger of the two buildings on the Lands shall hereinafter be referred to as Building "A", while the smaller of the two buildings shall hereinafter be referred to as Building "B".

3.3.3 A drive-in restaurant use shall not be permitted in Building "A".

3.3.4 The Developer shall be permitted one accessory building on the Lands.

3.4 Building Siting, Massing and Scale

3.4.1 Building "A" shall comply with the following siting, massing and scale requirements:

- (a) The building footprint shall not exceed 2,136.7 sq. m (23,000 square feet);
- (b) The height of the building, including the clock tower, shall not exceed 10.67 m (35 feet) above the mean grade of the finished ground adjoining the building;
- (c) The building shall be limited to one storey;

- (d) The building may be divided up into fifteen separate units each having their own respective entrance(s); and,
- (e) The building's siting on the Lands shall be as generally shown on Schedule B.

3.4.2 Building "B" shall comply with the following siting, massing and scale requirements:

- (a) The building footprint shall not exceed 297.28 sq. m (3,200 square feet);
- (b) The height of the building shall not exceed 10.67 m (35 feet) above the mean grade of the finished ground adjoining the building;
- (c) The building shall be limited to one storey;
- (d) The building may be divided up into two separate units each having their own respective entrances; and,
- (e) The building's siting on the Lands shall be as generally shown on Schedule B.

3.4.3 The accessory building shall comply with the following siting, massing and scale requirements:

- (a) The building footprint shall not exceed 37.16 sq. m (400 square feet);
- (b) The height of the building shall not exceed 4.57 m (15 feet) above the mean grade of the finished ground adjoining the building; and,
- (c) The siting of the building shall follow the setback requirements of the Land Use By-law.

3.5 Materials

Exterior building materials shall not include vinyl siding but may include any one or more of the following:

- (a) brick;
- (b) hardi board siding or equivalent;
- (c) stone masonry;
- (d) horizontal clapboard stained wood siding;
- (e) vertical tongue and groove or shiplap stained wood siding;
- (f) vertical board and batten stained wood siding; and
- (g) stained wood shingles.

3.6 Functional Elements

3.6.1 All vents, down spouts, electrical conduits, meters, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate

these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.

3.6.2 The buildings on the Lands shall be designed such that the mechanical systems (HVAC, cooking exhaust fans, etc.) are not visible from the Prospect Road. Furthermore, no mechanical systems shall be located between the building(s) and the abutting properties unless screened as an integral part of the building design and noise reduction measures are implemented.

3.6.3 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design of the building to make it as inconspicuous as possible when viewed from the Prospect Road.

3.7 Weather Protection

Covered walkways, arcades, awnings, open colonnades and similar devices shall be permitted along the front facades of the buildings to provide shelter and facilitate pedestrian movement.

3.8 Parking, Circulation and Access

3.8.1 The layout of the internal driveway system, circulation aisles and parking spaces on the Lands shall be as generally illustrated on Schedule B.

3.8.2 A minimum of 140 parking spaces shall be provided on the Lands.

3.8.3 All parking areas, driveways and circulation aisles on the Lands shall have a finished hard surface such as asphalt, concrete, interlocking precast concrete paver stones, or an acceptable equivalent in the opinion of the Development Officer.

3.8.4 The limits of the parking areas, driveways and circulation aisles on the Lands shall be defined by curbing.

3.8.5 Where the parking areas, driveways and circulation aisles are to be delineated by curbing, such curbing shall not be asphalt.

3.8.6 All parking spaces contained within the parking areas on the Lands, including reserved space for the mobility disabled, shall comply with the minimum requirements of the Land Use By-law.

3.8.7 The internal driveway layout and the circulation aisles on the Lands shall be designed and constructed to accommodate truck turning movements for the largest vehicle servicing the site.

3.9 Submission of a Detailed Landscape Plan

- 3.9.1 Prior to the issuance of Construction Permits for any of the components of the development on the Lands, the Developer agrees to provide a Detailed Landscape Plan, prepared by a Landscape Architect, which complies with the provisions of sections 3.9 through 3.13, inclusive, and generally conforms with the overall intentions of the Preliminary Landscape Plan and Plant Schedule as contained in Schedules G and H, respectively.
- 3.9.2 The Detailed Landscape Plan shall include, as a minimum, planting as identified in this Agreement and shall identify measures to provide a buffer between the building(s) and adjacent residential properties as well as for aesthetic enhancement. The plan should maintain as much of the natural landscape and vegetation as can be reasonably achieved.
- 3.9.3 Planting details for each type of plant material proposed on the Detailed Landscape Plan shall be provided, including species list with quantities, size of material, and common and botanical names (species and variety).
- 3.9.4 The Detailed Landscape Plan shall include a Tree Preservation Plan for the area identified as the Existing Tree Line on Schedule G.

3.10 General Landscape Provisions

- 3.10.1 All plant material shall conform to the current Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the current Canadian Nursery Sod Growers' Specifications.
- 3.10.2 Deciduous trees shall have a minimum of 60 mm caliper (2.4 inch diameter). Coniferous trees shall be a minimum of 1.5 m (5 feet) high and upright shrubs shall have a minimum height of 60 cm (2 feet).
- 3.10.3 Notwithstanding Section 3.10.2, no landscaping greater than 0.6 m (2 feet) in height shall be permitted within the daylighting triangle.
- 3.10.4 Construction Details or Manufacturer's Specifications for all constructed landscaping features such as fencing, retaining walls, recycling facilities, and benches shall be provided to the Development Officer, and shall describe their design, construction, specifications, model numbers, quantities, manufacturers of site furnishings, hard surface areas, materials and placement so that they will enhance the design of individual buildings and the character of the surrounding area.
- 3.10.5 Shrub material shall be used to screen any electrical transformers or other utility boxes.
- 3.10.6 All disturbed areas shall be reinstated to original condition or better.

3.11 Tree Preservation Plan

- 3.11.1 Living trees 15.24 cm (6 inches) in diameter at breast height or greater within the area identified as the Existing Tree Line on Schedule G shall be preserved except where they are located within the area to be occupied by the on-site sanitary system and the on-site water distribution system.
- 3.11.2 The Tree Preservation Plan shall identify the limit of disturbance, tree preservation areas, the hoarding fence location and the stockpile location.
- 3.11.3 Proper arboricultural practices shall be undertaken and shall include such activities as the erection of tree protective hoarding fence located as close to the drip-line of the trees to be preserved as possible for the duration of construction; no stockpiling of soil or materials or the movement of equipment within the hoarded areas; pruning of any damaged limbs or roots; and excavation no closer than ten feet to the trunk of any tree to be preserved.
- 3.11.4 Notwithstanding the above section, where a Certified Arborist, Landscape Architect, Forester, or Forestry Technician engaged by the property owner certifies in writing that a tree poses a danger to people or property or is in severe decline, the Development Officer may permit the tree to be removed. Any tree to be removed shall be replaced with a tree of a similar species at the expense of the Developer.
- 3.11.5 Any trees to be preserved that are damaged or improperly removed, shall be replaced, two new trees for each damaged or improperly removed tree, with trees of the same type and with minimum sizes of 60 mm caliper (2.4 inch diameter) for deciduous trees and coniferous trees a minimum of 1.5 m (5 feet) in height.

3.12 Retaining Walls

- 3.12.1 Retaining walls are not a requirement under this Agreement, but any that are proposed shall be identified on the Detailed Landscape Plan and Final Site Grading Plan, including the height and type of fencing that may be proposed in conjunction with it.
- 3.12.2 Any proposed retaining wall(s) shall be constructed of a decorative precast concrete or modular stone retaining wall system or equivalent.
- 3.12.3 A construction detail of any proposed retaining wall(s), or retaining wall and fence combination(s), shall be provided and certified by a Professional Engineer.

3.13 Fencing

Fencing is not a requirement under this Agreement, but any that are proposed shall be shown on the Detailed Landscape Plan including information on its location, height and type of material(s) to be used.

3.14 Compliance with Detailed Landscape Plan

- 3.14.1 Prior to issuance of the first Occupancy Permit, the Developer shall submit to the Development Officer a letter prepared by a Landscape Architect certifying that all landscaping has been completed according to the terms of this Agreement.
- 3.14.2 Notwithstanding Section 3.14.1, 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 Developer shall engage the services of a Landscape Architect to prepare and submit, as part of the Occupancy Permit application, a cost estimate for the uncompleted work. The cost estimate, including quantities, unit prices and a 10% contingency fee, shall be approved by the Development Officer. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. Should the Developer not complete the landscaping within twelve months of issuance of first Occupancy Permit, the Municipality may, but is not required to, use the deposit to complete the landscaping as set out in this Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification by a Landscape Architect.

3.15 Signage

Signage for the development permitted under this Agreement shall be in accordance with Part 5 of the Planning District 4 Land Use By-law.

3.16 Outdoor Storage and Display

- 3.16.1 No outdoor storage shall be permitted on the Lands except for refuse, recycling, and composting materials.
- 3.16.2 Propane tanks and electrical transformers shall be located on the site in such a way to ensure minimal visual impact from the Prospect Road and residential properties along the northern and southern property lines. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing/masonry walls with suitable landscaping.

3.17 Solid Waste Facilities

- 3.17.1 Each building shall be assigned a designated space for source separation services, which may be included either inside or outside the building.
- 3.17.2 All refuse, recycling, and composting materials stored outside the buildings shall be contained within suitable containers located in either the rear or side yard, which shall themselves be fully screened from adjacent properties and from streets by means of opaque fencing/masonry walls with suitable landscaping.

3.17.3 The designated spaces for source separation services shall be shown on either the building plans or the site plan and shall conform with By-law S-600 (Solid Waste Collection & Disposal).

3.18 Building and Site Lighting

Lighting shall be directed to driveways, parking areas, loading areas, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

3.19 Maintenance

The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the interior and exterior of the buildings, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal, snow and ice removal, and salting/sanding of walkways and driveways.

3.20 Hours of Operation

3.20.1 The permitted uses on the Lands shall be allowed to operate between the hours of 7:00 am and 12:00 am, 7 days a week.

3.20.2 Deliveries to the Lands, and the collection of refuse, recycling, and composting materials, shall only occur between the hours of 7:00 am and 8:00 pm.

3.20.3 The hours of operation for any of the uses permitted on the Lands shall conform with all relevant municipal and provincial legislation and regulations, as may be amended from time to time.

3.21 Temporary Construction Structure

A temporary structure shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction of the development in accordance with this Agreement. The structure shall be removed from the Lands prior to the issuance of the final Occupancy Permit.

3.22 Requirements Prior to Approval

3.22.1 Prior to the issuance of any municipal permits for any of the buildings allowed under this Agreement, the Developer shall complete the MICI (Multi-unit/Industrial/Commercial/Institutional) process, as outlined by the Municipality.

3.22.2 Prior to the issuance of Construction Permits for any of the components of the development on the Lands, the Developer shall provide the following to the Development Officer:

- (a) A Detailed Landscape Plan prepared by a Landscape Architect in accordance with sections 3.9 through 3.13, inclusive, of this Agreement;
- (b) Nova Scotia Environment approval of the existing or any new potable water supply as a Public Drinking Water Supply;
- (c) A Level II Groundwater Assessment in accordance with Section 4.4.2 of this Agreement;
- (d) Nova Scotia Environment approval of the existing or any new on-site sewage disposal system;
- (e) Nova Scotia Department of Transportation and Infrastructure Renewal approval of the site access;
- (f) Nova Scotia Department of Transportation and Infrastructure Renewal approval of the Stormwater Management Plan, as described under Section 5.1(c); and
- (g) Nova Scotia Department of Transportation and Infrastructure Renewal approval of the design plans for a left turning lane, as recommended in the report titled Traffic Impact Study - Proposed Neighbourhood Commercial Project Route 333, Whites Lake, prepared by Atlantic Road & Traffic Management and dated September 17, 2007; # 0755.

3.22.3 Prior to the issuance of the first Occupancy Permit, the Developer shall provide the following to the Development Officer:

- (a) Written confirmation from the Nova Scotia Department of Transportation and Infrastructure Renewal indicating compliance with the construction of a left turning lane, as recommended in the report titled Traffic Impact Study - Proposed Neighbourhood Commercial Project Route 333, Whites Lake, prepared by Atlantic Road & Traffic Management and dated September 17, 2007; # 0755;
- (b) Certification from a Professional Engineer indicating that the Developer has complied with the Stormwater Management Plan required pursuant to this Agreement; and
- (c) Certification from a Landscape Architect indicating that the Developer has complied with the Detailed Landscaping Plan required pursuant to this Agreement.

3.22.4 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the

Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.23 Variation by Development Officer

- 3.23.1 The Development Officer may permit a five per cent (5%) increase in the footprint of Building "A" and Building "B", provided that all other provisions of this Agreement have been adhered to.
- 3.23.2 The Development Officer may approve changes to the parking and circulation layout, as illustrated on Schedule B.
- 3.23.3 The Development Officer may approve changes to the landscaping measures shown on Schedules G and H of this Agreement.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

All construction shall satisfy Municipal Service Systems Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Municipality's Development Engineer prior to undertaking the work.

4.2 Off-Site Disturbance

Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Municipality's Development Engineer.

4.3 Underground Services

The Developer shall install all secondary services (electrical and communication distribution systems) to both Building "A" and Building "B" underground.

4.4 On-Site Water Distribution System

- 4.4.1 The Lands shall be serviced through a privately operated on-site water distribution system. In accordance with clause (b) of Section 3.22.2, no Construction Permit for any component of the development on the Lands shall be issued prior to the Development Officer receiving a copy of all permits, licences, and approvals required from Nova Scotia Environment respecting the design, installation, and operation of the on-site water distribution system.

4.4.2 Prior to the issuance of a Construction Permit for any component of this Agreement, the Developer shall carry out, to the satisfaction of the Development Officer, a Level II Groundwater Assessment as described in the report titled Groundwater Supply Assessment prepared by Strum Environmental and dated March 31, 2008.

4.5 On-Site Sewage Disposal System

The Lands shall be serviced through a privately owned and operated on-site sanitary system. In accordance with Section 3.22.2(d), no Construction Permit for any component of the development on the Lands shall be issued prior to the Development Officer receiving a copy of all permits, licences, and approvals required from Nova Scotia Environment respecting the design, installation, and operation of the on-site sewage disposal system.

4.6 Left Turning Lane

The Developer shall be responsible for the construction of a left turning lane, as recommended in the report titled Traffic Impact Study - Proposed Neighbourhood Commercial Project Route 333, Whites Lake and prepared by Atlantic Road & Traffic Management (dated September 17, 2007; # 0755), in order to ensure efficient movement of traffic along the site. In accordance with Section 3.22.2(g), no Construction Permit for any component of the development on the Lands shall be issued prior to the Development Officer receiving written confirmation from the Nova Scotia Department of Transportation and Infrastructure Renewal that satisfactory design plans for the left turning lane have been submitted.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Stormwater Management Plans and Erosion and Sedimentation Control Plans

Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall:

- (a) Submit to the Development Officer a detailed Site Disturbance Plan, prepared by a Professional Engineer indicating the sequence and phasing of construction and the areas to be disturbed or undisturbed;
- (b) Submit to the Development Officer a detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other Sections of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented. The Erosion and Sedimentation Control Plan shall indicate the sequence of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction; and,

- (c) Submit to the Development Officer a detailed Final Site Grading and Stormwater Management Plan prepared by a Professional Engineer, which shall include an appropriate stormwater collection and treatment system. The Final Site Grading and Stormwater Management Plan shall identify structural and vegetative stormwater management measures, which may include infiltration, retention, and detention controls, wetlands, vegetative swales, filter strips, and buffers that will minimize adverse impacts on receiving watercourses during and after construction.

5.2 Stormwater Management System

- 5.2.1 The Developer agrees to construct at its own expense the Stormwater Management System pursuant to Subsection 5.1(c). The Developer shall provide certification from a Professional Engineer that the system, or any phase thereof, has been constructed in accordance with the approved design.
- 5.2.2 The Developer agrees, at its own expense, to maintain in good order all stormwater facilities on the Lands.

5.3 Failure to Conform to Plans

If the Developer fails at any time during any site work or construction to fully conform to the approved plans as required under Section 5.1, the Municipality shall require that all site and construction works cease, except for works which may be approved by the Development Engineer to ensure compliance with the environmental protection measures.

PART 6: AMENDMENTS

6.1 Substantive Amendments

Amendments to any matters not identified under Section 6.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

6.2 Non-Substantive Amendments

The following items are considered by both parties to be not substantive and may be amended by resolution of Council:

- (a) The granting of an extension to the date of commencement of development, as identified under Section 7.3 of the Agreement;
- (b) The granting of an extension to the length of time for the completion of the development, as identified under Section 7.4 of the Agreement;

- (c) Changes to the exterior architectural appearance of Building "A", including materials, architectural treatments, and fenestration pattern, provided that the building's size has not increased;
- (d) Changes to the signage requirements detailed under Section 3.15 of this Agreement; and,
- (e) Changes to the hours of operation detailed under Section 3.20 of this Agreement.

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

A copy of this Agreement and every amendment or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office at Dartmouth, Nova Scotia and the Developer shall incur all costs in recording such documents.

7.2 Subsequent Owners

- 7.2.1 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.
- 7.2.2 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).

7.3 Commencement of Development

- 7.3.1 In the event that development on the Lands has not commenced within four (4) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.
- 7.3.2 For the purpose of this Agreement, commencement of development shall mean the installation of the footings and foundation for the first building.
- 7.3.3 Council may consider granting an extension of the commencement of development time period through a resolution under clause (a) of Section 6.2, if the Municipality receives a written request from the Developer prior to the expiry of the commencement of development time period.

7.4 Completion of Development

Upon the completion of the development or portions thereof, or after six (6) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, whichever

time period is less, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new agreement; or
- (c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Planning District 4, as may be amended from time to time.

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

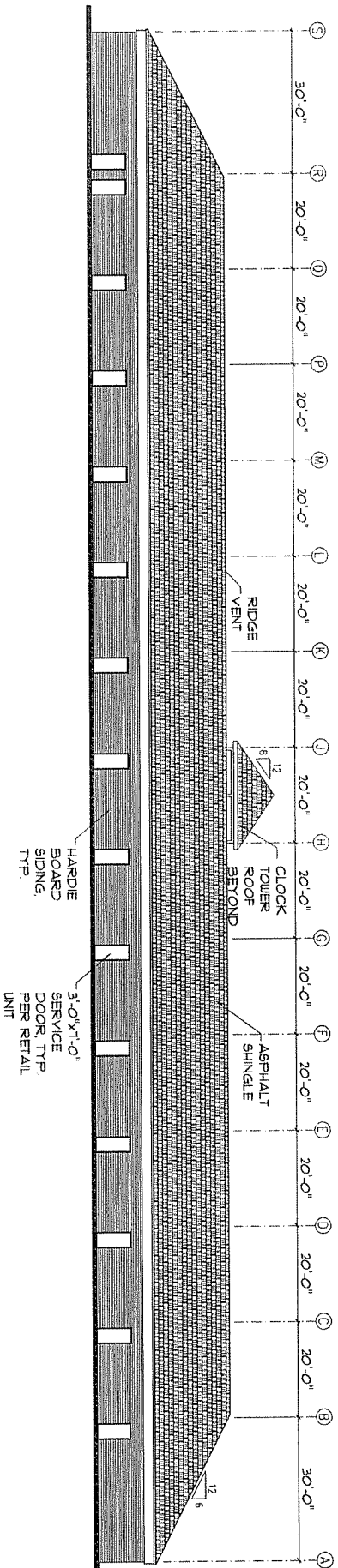
8.1 Enforcement

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty four (24) hours of receiving such a request.

8.2 Failure to Comply

If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, then in each such case:

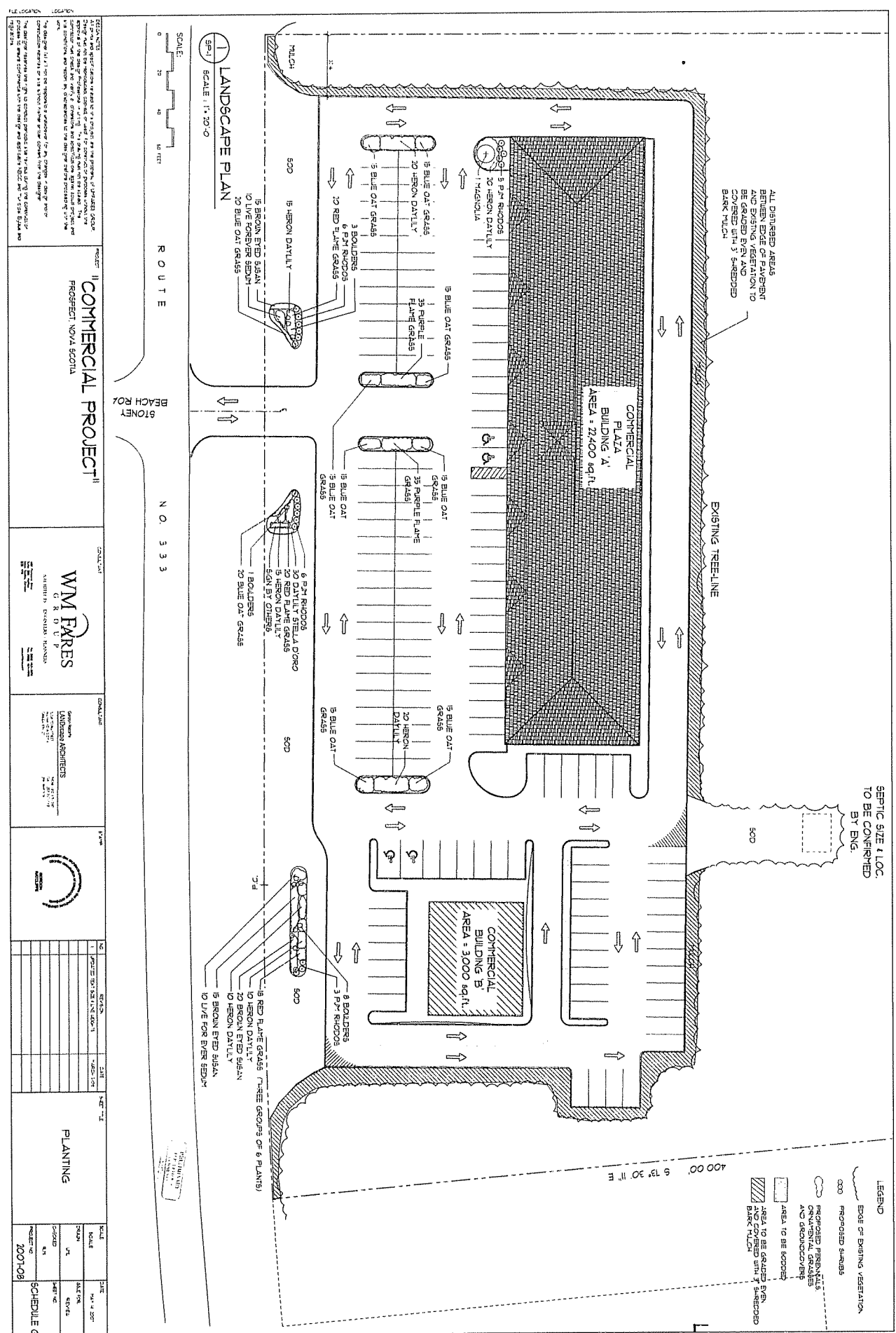
- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defense based upon the allegation that damages would be an adequate remedy;
- (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;
- (c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; or
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remediation under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.



3 PROPOSED REAR ELEVATION
301 SCALE: NTS

NOTES:
1. THIS DRAWING IS A PART OF THE PROJECT AND THE PROPERTY OF THE ARCHITECT. IT IS TO BE USED ONLY FOR THE PROJECT AND NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.
2. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.
3. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY UTILITIES AND SERVICES FROM THE LOCAL AND STATE AUTHORITIES.
4. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE AND BONDING FROM THE LOCAL AND STATE AUTHORITIES.
5. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY CONTRACTS FROM THE LOCAL AND STATE AUTHORITIES.

<p>PROJECT: COMMERCIAL PROJECT II PROJECT NOVA SCOTIA</p>		<p>CONTRACT NO. WM PARES ARCHITECTURAL FIRM</p>		<p>DATE: 2001-08</p>	
<p>SCALE: 3/8" = 1'-0"</p>		<p>DATE: 2001-08</p>		<p>SCHEDULE D</p>	
<p>DATE: 2001-08</p>		<p>DATE: 2001-08</p>		<p>DATE: 2001-08</p>	



Attachment B Review of Most Relevant Policies

While it is not the intention to permit the future development of commercial uses throughout the Residential A Designation, there is one particular property where the future development of a shopping centre is desired by residents. This is on the lands of Food City Limited which is situated east of the Stoney Beach Road Subdivision, in Whites Lake. This land is highly visible and accessible to all communities situated throughout the Plan Area and the residents welcome the high degree of convenience which will be enjoyed with the provision of a full service grocery store and other retail services from the site. In order to ensure that such a centre is architecturally compatible with the surrounding area, appropriately landscaped and traffic and storm drainage effects are minimized, Council will only consider this development through the development agreement provisions of the Planning Act.

RA-9 Notwithstanding Policy RA-2, within the Residential A Designation, Council may consider permitting the development of a shopping centre on the lands of Food City Limited (LIMS No. 40471286) in accordance with the development agreement provisions of the Planning Act. In considering such agreements, Council shall have regard to the following:

Policy Criteria	Staff Comments
(a) that the architectural design (external appearance) and scale of any structures are compatible with nearby land uses;	The draft development agreement limits the scale of the two proposed buildings (Sections 3.1 and 3.4), and also controls their external appearance (Sections 3.1 and 3.5), in order to ensure compatibility with nearby land uses.
(b) that adequate separation distances are maintained from low density residential developments;	There is a 52 feet separation distance between the larger of the two buildings (Building "A") and the northern property line. There is a separation distance of over 100 feet between the two proposed commercial buildings (Buildings "A" and "B") and the eastern property line (vacant parcel). There is in excess of 50 feet between the smaller of the two buildings (Building "B") and the southern property line (proposed road reserve). The closest dwelling to either of the two proposed commercial buildings would be in excess of 70 feet away.

<p>(c) the provision of landscaping and screening from any adjacent residential development;</p>	<p>The draft development agreement requires the provision of landscaping for the site (Sections 3.9 to 3.14, inclusive). It also requires the screening of electrical transformers and other utility boxes, propane tanks, mechanical equipment (HVAC, cooking fans, etc.), roof mounted telecommunication equipment, and solid waste facilities from adjacent residential development.</p>
<p>(d) the impact of the proposed use on the existing road network in terms of traffic generation and vehicular and pedestrian safety;</p>	<p>A traffic study was reviewed and accepted by the Nova Scotia Department of Transportation and Infrastructure Renewal. It concluded that with the construction of a southbound left turn lane, trips generated by the proposed commercial development would not have any significant impact on the performance of the Prospect Road. The draft development agreement will require the Developer to construct the southbound left turn lane.</p>
<p>(e) the means by which solid and liquid waste will be treated;</p>	<p>By-law S-600 requires multi-stream solid waste source separation for commercial establishments.</p> <p>As per Section 4.5 of the draft development agreement, liquid waste will be treated through a privately owned and operated on-site sanitary system.</p>
<p>(f) the effects of the development on the natural environment and the means for handling stormwater runoff;</p>	<p>A stormwater management plan was reviewed and accepted by the Nova Scotia Department of Transportation and Infrastructure Renewal.</p>
<p>(g) the general maintenance of the development;</p>	<p>General maintenance is covered under Section 3.19 of the draft development agreement.</p>
<p>(h) the hours of operation; and</p>	<p>Section 3.20 of the draft development agreement limits the hours of operation, the hours of deliveries, and the hours of collection of refuse, recycling, and composting materials.</p>
<p>(i) the provisions of Policy IM-11.</p>	<p>See review below.</p>

IM-11 In considering development agreements or amendments to the land use bylaw, in addition to all other criteria as set out in various policies of this Planning Strategy, Council shall have appropriate regard to the following matters:

Policy Criteria	Staff Comments
(a) that the proposal is in conformity with the intent of this Planning Strategy and with the requirements of all other municipal by-laws and regulations;	<p>There exists policy support for this type of proposal under the Planning District 4 Municipal Planning Strategy (Policy RA-9). See review of Policy RA-9 above.</p> <p>This draft development agreement does not supercede the applicability of other by-laws, statutes and regulations, other than the Planning District 4 Land Use By-law to the extent varied by the agreement.</p>
(b) that the proposal is not premature or inappropriate by reason of:	
(i) the financial capability of the Municipality to absorb any costs relating to the development;	This development will not result in additional costs to the Municipality.
(ii) the adequacy of on-site sewerage and water services;	<p>Sections 4.4 and 4.5 cover the adequacy of the on-site water distribution system and the on-site sanitary system, respectively.</p> <p>A groundwater supply assessment was undertaken for the proposed project. The report did not indicate any immediate quantitative concern. However, it did recommend the completion of a Level II Assessment prior to development. This additional testing will help to determine long term safe yields, well separation distance, and influence on nearby wells.</p>
(iii) the proximity of the proposed development to schools, recreation or other community facilities and the capability of these services to absorb any additional demands;	This development will not increase the demand for schools, recreation or other community facilities in the area.

<p>(iv) the adequacy of road networks leading to or within the development; and</p>	<p>A traffic study was reviewed and accepted by the Nova Scotia Department of Transportation and Infrastructure Renewal. It concluded that with the construction of a southbound left turn lane, trips generated by the proposed commercial development would not have any significant impact on the performance of the Prospect Road. The draft development agreement will require the Developer to construct the southbound left turn lane.</p>
<p>(v) the potential for damage to or for destruction of designated historic buildings and sites.</p>	<p>There are no designated historic buildings or sites in the immediate area.</p>
<p>(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</p>	
<p>(i) type of use;</p>	<p>The following uses will be permitted under the development agreement: convenience store, craft shop, medical clinic, office, personal service shop, restaurant, and retail store. However, only one drive-in restaurant shall be permitted to operate on the Lands at any given time (Section 3.20).</p>
<p>(ii) height, bulk and lot coverage of any proposed building;</p>	<p>Section 3.4 of the draft development agreement covers height, bulk and lot coverage for all the proposed buildings.</p>
<p>(iii) traffic generation, access to and egress from the site, and parking;</p>	<p>Section 3.8 of the draft development agreement covers parking, circulation and access to and egress from the site.</p>
<p>(iv) open storage;</p>	<p>No outdoor storage will be permitted on the property.</p>
<p>(v) signs; and</p>	<p>Section 3.15 of the draft development agreement covers signage on the site.</p>
<p>(vi) any other relevant matter of planning concern.</p>	<p>No other relevant matter of a planning concern were identified by staff.</p>

<p>(d) that the proposed development is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.</p>	<p>The site does not possess steep grades.</p> <p>Staff is unaware of the presence of any unsuitable soil or geological conditions.</p> <p>Nova Scotia Environment determined that there were no watercourse, marsh, or bog on the subject property.</p>
<p>(e) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-July 2, 2002 / E-August 17, 2002)</p>	<p>The development is to occur on an existing lot fronting on the Prospect Road. No subdivision will be required.</p>

Attachment C

Public Information Meeting Case 01077 November 28, 2007

In attendance: Councillor Rankin
Luc Ouellet, Planner, Planning Applications
Gail Harnish, Planning Services
Cesar Saleh, WM Fares Group

Call to order

Mr. Luc Ouellet called the public information meeting (PIM) to order at approximately 7:00 p.m. at the Brookside Junior High School. The purpose of the meeting is to allow the developer's consultant the opportunity to present a proposal for the project; it allows staff the opportunity to present the planning process; and it provides an opportunity for the people in attendance to provide some comments and ask questions.

Overview of planning process

Mr. Ouellet noted the handout includes the agenda, the proposal fact sheet, the development agreement flow chart, and an extract of relevant policies from the Municipal Planning Strategy (MPS) for Planning District 4. The policy allows for an application to be considered by development agreement, which is a contract between the Municipality and the developer. The zoning does not change. The agreement allows us to address concerns such as design, servicing, hours of operation, landscaping, and buffers.

Mr. Ouellet reviewed the development agreement process:

- an application has been received
- a preliminary review of the application was carried out
- tonight is the PIM
- staff will do a detailed review of the application which includes referral of the application to agencies
- staff will prepare a report, with a recommendation, which is tabled with Western Region Community Council
- Community Council will decide whether or not to schedule a public hearing
- if a public hearing is scheduled, those on the mailing list will be notified in addition to the newspaper advertisement
- the public hearing is held
- Community Council makes its decision
- there is an appeal process

Proposal

Mr. Cesar Saleh, WM Fares Group, pointed out the site in question, as well as a neighbourhood commercial plaza which is now Whites Lake Plaza. Their client, George Giannoulis, owns the land, and is an experienced developer/builder. They have worked with him for about twenty-five years. The site is located across the road from Stoney Beach Road. It is a heavily treed site.

Mr. Saleh advised they are proposing a neighbourhood commercial plaza and a drive-thru restaurant. It is a one storey building. The area of the site is 5.5 acres with 615' of frontage. Building A which is the plaza is 22,000 sq.ft., and Building B which is the drive-thru restaurant, is 3,000 sq.ft. The coverage of both buildings represents 10.6% of the site.

Mr. Saleh indicated in terms of parking, there would be 110 parking spaces for the plaza and 40 spaces for the drive-thru restaurant, which represents about 5 parking spaces for each 10,000 sq.ft. of leasehold. They are maintaining a 25' treed buffer on both sides. They will maintain as much of the tree buffer in the back as possible. They need some area there for their septic system, however, they will try and maintain it as a no-cut tree buffer zone. The parking is in the front. They will complete a landscape plan as part of this project.

Mr. Saleh advised a third party consultant has completed a full traffic study. The recommendation from that study is to do some improvements on Route 333 by introducing a left lane going into that plaza.

Mr. Saleh displayed a floor plan of the neighbourhood commercial plaza. It houses mostly personal service shops. Typical uses would be a medical office, a dental office, a chiropractor, a coffee shop, a food store such as Needs, a hair salon, and a pizza take-out. There are 15 leasehold spaces which might change depending on the tenant. The typical size space is 20'x60'. That is the maximum number of spaces they can have, but there may be less depending on who occupies them. Each space will have two points of access; a front entrance and a back entrance.

Mr. Saleh displayed the front elevation, noting it is a one storey building, and the height to the main roofline is 27'. It has a center clock tower. It has hardi-plank siding, a hip roof, circular columns, and glazing in the front. The clock tower goes up another 10' at the center portion of the building. There will be a covered walkway in front of the stores.

Mr. Saleh reviewed what they believed to be the merits of the proposal:

- it is being proposed as a neighbourhood commercial plaza
- the architectural design and scale are compatible with residential uses
- they will maintain a no-tree cutting buffer at the sides and the rear of the building to give a maximum buffer to adjacent residential uses
- the building will be a good addition to the community providing local service to the community

Questions and comments from members of the public

Mr. Don Ray questioned whether there would be any restrictions on the type of business that would be going in there, ie., a pool house and a pub.

Mr. Ouellet commented this is what is good about a development agreement process versus a rezoning because they can set controls. You can say, for example, no bars. We are planning to do that. We could say they are allowed to have ten different uses and beyond that they would have to amend the agreement through another planning process. Now is the time to let us know of any specific type of uses they did not want to see there.

Mr. Ray said he mentioned a billiards hall because traditionally they have caused problems in the neighbourhood. He would not be interested in seeing one locate there.

Ms. Loretta O'Brien questioned how this would affect the water table.

Mr. Ouellet responded there is a mechanism. This will be considered a public drinking water supply and the Province has regulations. There will have to be some testing. Beyond that there are two types of permits. If it is above 23,000 litres a day, they have to do a detailed study. In this instance, it is less than that. For an application in Ingramport, the issue was raised so we included a clause in the agreement to include a detailed study. Depending on the amount of water that would be extracted, a detailed analysis of the area would be done by an engineer to determine the effect on the neighbouring properties.

Ms. O'Brien questioned whether this company would be responsible after the fact.

Mr. Ouellet advised they will have to prepare a mitigation plan. Normally these are done by experts and are fairly detailed studies.

Mr. Saleh stated they are beginning the process. They have retained Servant Dunbrack to do the site detail. They have taken the proposal and the type of uses being marketed for the site and they have done an initial review. They are confident they can have an onsite system that would service this plaza. Based on the type of uses they are recommending, they do not think they will come to that upper limit per day.

Ms. O'Brien indicated one of her concerns is that the whole area is bedrock. When you drill wells, sometimes you can deplete somebody else's vein. She questioned whether this company would be responsible, if such a thing should happen, to replenish the affected person's well.

Mr. Saleh responded the beauty of the process is that it is a contract agreement. It is a legal agreement with any clauses the City wants to include in terms of mitigation and protection for the public. It is a specific agreement to deal with any issues raised by members of the public. They have to adhere to the Department of the Environment's (DOE) strict regulations.

Ms. O'Brien noted the septic system is shown as being up above her well.

Mr. Saleh responded the location is approximate. They don't have the location of the septic tank yet; that is part of the detailed design.

Mr. Roger O'Brien expressed concern with them taking 23,000 gallons of water out of the water system to service the plaza. They are in the County where people have wells. That is their drinking water and washing water. He expressed concern that they would run out of water if this plaza is built.

Mr. Saleh indicated DOE has different numbers. Depending on the range they fall in, it dictates the type of design and process they have to follow. The type of uses they are proposing do not draw a lot of water. A full restaurant would draw a lot of water whereas a medical and a dental office would draw a minimum of water.

Mr. O'Brien asked what would happen if somebody wanted to put a laundromat in there. They do not know for sure what uses will locate there.

Mr. Saleh responded DOE will give them approvals based on how much water they are going to consume, so they will tell their engineers what type of uses they are recommending. Each type of use has a certain type of consumption.

Mr. O'Brien commented it is an assumption.

Mr. Saleh noted it is a science. For commercial uses, each type of business draws a certain consumption. They have to engineer for that and have design drawings and based on that they get their approvals from DOE. The extra measure here is that there would be a development agreement signed by the City and the developer which states what they can do on that site.

Mr. Dan McAvoy commented he hoped a restaurant and a hair salon used a lot of water or they would be shut down. You're talking about development agreements. The problem with that is if there is a deficiency in the system, it is a legal problem and whether somebody can pay for a lawyer. He knew these businesses used a lot of water so there will be a big water deficiency.

Mr. Saleh stated the development agreement will have a clause to protect the public. HRM will have to address your concerns as part of the agreement. There is a process and a way to make sure the residents surrounding the development are protected.

Mr. Emery Peters indicated there will be run-off from this property. There are shallow wells there as well. There is also a small brook just up from Stoney Beach which runs down to Whites Lake. This will be a significant attributing factor of run-off from that property to the brook and down to the back side of Stoney Beach.

Mr. Saleh advised they had an environmental consultant go on the site because they noticed their appeared to be a wet area there. They met with DOE and the stream of water they found was analyzed and deemed not to be a watercourse. It is draining from wetlands above that site. The recommendation from DOE and the environmental consultant was if that if their building was in

the way of that stream of water, they would have to redirect it and make sure the quality of the water is not jeopardized.

Mr. Peters countered the water still has to go somewhere.

Mr. Saleh responded it would go to the same place but it would be re-directed. It is drainage from the lands beyond.

Mr. Peters commented the water comes through now at such a speed that it erodes property. They would be adding water to it. It has to have a significant impact.

Mr. Saleh advised they have an engineer who will prepare stormwater management and erosion plans which are reviewed by the approval agencies. Whatever water is generated from the building is accounted and designed for.

Mr. Peters questioned what comfort level the residents would have if their property is eroded through stormwater.

Mr. Saleh indicated the comfort level they have is there are professional engineers that look at the problem, assess it, design for it, and submit it to the Engineers at the City.

Mr. Peters questioned if the detailed proposal to the City would show how that is being addressed.

Mr. Saleh responded absolutely. Before this process is finished and during the building permit process, this building and site will be designed and has to meet all the existing regulations.

Mr. Peters noted it was mentioned a turning lane would be designed. That will not help those pulling out of Stoney Beach Road. He questioned if there was any consideration given to installing a turning lane on the same side of the building to get traffic away from the main floor.

Mr. Saleh advised a full traffic study has been done. He said he would pass the comment onto their traffic engineer. The access and the volume of traffic from the 333 and Stoney Beach Road has been assessed for existing and anticipated future conditions. He volunteered to provide a copy of the report.

Ms. Kathy Oakley commented it looks like a beautiful big roof for collecting water into a cistern. They have had other vacant buildings as well. She questioned if interest has been expressed by businesses wanting to locate there if they built the plaza or were they hoping the businesses would come if they built the building.

Mr. Saleh advised marketability of the project was outside his scope and he could not comment on it. Their clients do their own marketing.

Ms. Oakley questioned if they could assume businesses would want to go there.

Mr. Saleh responded he hoped that was a very good assumption.

Ms. Oakley stated the vacant buildings around there are not doing very well.

Mr. Alan Coolen said he had a dug well across from where they wanted to build. He questioned what would happen to his well if they did blasting and excavation.

Mr. Saleh stated this is a slab on-grade building so the amount of excavation for both buildings is very minimal. He did not think there would be any blasting. Also, there are blasting regulations. The development agreement will have measures to indicate it is the developer's responsibility if there is any damage. He was confident the agreement would include a clause in the agreement protecting the public's interest.

Mr. Bill Estabrooks, MLA, questioned whether there was any contact with the Provincial Department of Transportation. He requested that he be provided with a copy of the transportation study. He questioned who would pay for the installation of the left-hand turning lane. Also, the concern about the water is a huge one.

Mr. Estabrooks indicated with the amount of traffic, particularly coming up from Stoney Beach Road, making a left-hand turn towards Halifax can be treacherous during the day. He questioned whether the traffic study recommended a decrease in the speed limit. He would assume there would be some congestion.

Mr. Saleh advised he would provide Mr. Estabrooks with a copy of the study. Also, he would forward a copy to the Planning Department. It is public information. DOT was involved. They made it clear what their concerns were and what they wanted to be dealt with in the traffic study. There has been full communication between the consultant and DOT. It was his understanding it was up to the developer to do any required improvements to the road. If a left-hand turning lane is required, it is the developer's responsibility to make the necessary adjustments to that road. Also, it was his recollection they did take the speed limit into consideration and that the study speaks to it.

Mr. Estabrooks questioned whether the recommendation was to reduce the speed limit to 50 kms.

Mr. Saleh responded he was not sure what the recommendation was.

Mr. McAvoy commented about 50% of the commercial market is in Brookside and most people do not travel that road. He said he would be fascinated to know the numbers that justify that concept and could not see the commercial viability. He questioned whether there are more subdivisions they don't know about that this is being prepared for?

Mr. Ouellet responded not to his knowledge.

Mr. McAvoy questioned whether they are going through this process to get permission to put something there that may never get built.

Mr. Ouellet responded that's always a possibility. There is usually a clause in the development agreement which talks about when work on the project should start and finish. Usually we include a sunset clause so if it's not built in two to three years, the agreement becomes nullified. That is something we will be including in the agreement.

Mr. Saleh stated he could not speak to the marketability. The developer does their own marketing. He assumed he has done his marketing analysis as he is a very good businessman.

Ms. Judi Ray said they already have a lot of closed businesses in their area, and was not sure why this mall is going in. They have a hair salon, a fast food outlet, and a medical and dental centre. She questioned whether this proposed mall would push these people out.

Mr. Saleh commented her point also goes back to the marketability. He proposed these uses because he wanted to give an idea of the general type of uses that could be considered as personal service shops. It was not meant to be limited to those specific types of stores.

Ms. Ray questioned whether there has been a study to ask people if they want something like this in the area or if there is a need for one.

Mr. Ouellet responded not from HRM's point of view.

Mr. John Forbes questioned whether there was any consideration given to putting an entrance on both ends of the development to relieve the traffic.

Mr. Saleh responded they did propose two entrances at one point, however, both the traffic consultant and HRM wants to have a controlled access at this location.

Mr. Ouellet clarified it was DOT who suggested the location for the entrance.

Mr. Forbes indicated in terms of water run-off, they have a big beautiful roof that will provide a lot of water in a good rain. Also, 150 parking spots will be dumping water in a ditch that will go in his back yard. They are down the hill from the site.

Mr. Saleh stated there are rules and regulations that have to be adhered to, otherwise approvals will not be granted.

Ms. Terri MacDonald questioned whether there was a similar type of mall somewhere else that did not have water and sewer services.

Mr. Saleh responded he was sure this was not the first one of this type but he has not worked on one. He volunteered to give her a call with some references. An engineer that designs stormwater management systems has looked at the size and type of uses for this neighbourhood commercial plaza and says there is no problem in terms of capacity.

An individual commented there are two major streams that come down Stoney Beach Road. It is being said the engineers will look at this and the water will go into the ditch. Once it gets into the

ditch, it comes across the road. There are roads that are not in good shape now. There is flooding. Some of the neighbours put in ditches around their properties to avoid this and this development will quadruple the water coming down the hill because of the paved area. He questioned whether there was a commitment from HRM to look at the brook and ditches to ensure it can handle the water.

Mr. Ouellet advised the ultimate responsibility for drainage in unserviced areas tends to rest with DOT and DOE. However, our engineers will look at these applications and will tell us if it's okay and we will prepare the recommendation based on their advice. Even though a lot of the jurisdiction is in Provincial hands, our engineers take a second look at it for almost any type of project. You can build in controls. There are ways to keep the water onsite. We will look to make sure the site does not cause problems down the Stoney Beach Road.

The individual asked for confirmation that staff will look at the brook and ensure it is capable of handling the excess water.

Mr. Ouellet advised a professional engineer has to be hired who will prepare a stormwater management plan. Our engineers will review them as will DOT because it impacts their road system and also DOE normally looks at them. They will all make recommendations which we will take into account when preparing the development agreement. If there is a major issue that cannot be resolved, we will not recommend approval. When there is a development agreement process, we normally ask for the stormwater management plan in advance. We will also take the application to the Halifax Watershed Advisory Board who will require a preliminary stormwater management plan.

It was questioned whether there would be somebody physically onsite to look at this and not from an office.

Mr. Ouellet responded our engineers will sometimes go onsite. The plans themselves are done by a third party and are reviewed by our engineers.

Mr. Saleh stated that even though a lot of the detailed design is done during the building permit stage, he would commit to pay very special attention during this process to those two issues (stormwater management and possible effects on adjacent wells) so they do not cause a problem. As professionals, they have a responsibility to the public as well. The issues will be looked into more thoroughly to be confident there will not be any negative impact.

Ms. Linda Regan said she wanted assurances they would review all the properties in the subdivision.

Mr. Gary Mosher questioned how many wells they would be drilling.

Mr. Saleh responded he did not know. Servant Dunbrack would look at that.

Mr. Mosher questioned what happens if he had no water.

Mr. Saleh responded this is Design 4 and meets regulations. There are regulations in place to protect the public. He had to have faith in the designers and the approval agencies. The development agreement will have clauses in case there is a problem to ensure that it's the developer's responsibility to rectify any problem.

Mr. Peters noted it was indicated they would look at the traffic studies, the stormwater run-off, and the impact on the wells. He questioned if it would come back to the public to hear how it would be used in the design or if it would be assumed to be okay because the engineers looked at it.

Mr. Ouellet advised DOT was very concerned when the two accesses were being proposed and they wanted one. The traffic engineers work with standards. The Halifax Watershed Advisory Board does its own separate report to Council. In terms of drainage, he was waiting for comments back from DOE. He would also have discussions with DOT and our engineers. When we go back to Council, the report will address the concerns in the discussion section of the staff report. All the reports paid for by the developer will be public information but will not be part of the staff report. We have a new policy whereby studies can be made available. In terms of correspondence between staff and DOE, that is not public information and is not attached to the staff report. Everybody has a chance to address Council at the public hearing.

Mr. Saleh indicated members of the public could also visit them at their office.

Mr. Ouellet stated the public hearing would not be held for at least four to five months because other studies will have to be done. Usually a development agreement process takes between six to twelve months depending on the complexity of the issue.

Ms. Ray said they could not stop at the top of Stoney Beach Road. As you come up the hill, you have to hope nothing is coming because you cannot stop.

An individual indicated there was a similar proposal about thirty years ago and asked why it did not proceed.

Mr. Ouellet responded he would have to look at that but nothing came up when we did the search.

Ms. Oakley commented that if they can take care of the concerns related to water and septic and traffic, she thought it was a great idea. She liked the idea of development. They are not anti-development. They live in a rural area and have special concerns.

Mr. Ron Stewart questioned on what side of the road the third lane would go. Somebody would be losing their property. When you get to the top, the road will be even steeper.

Mr. Saleh indicated it is a separate left turning lane. The lane would be pushed towards the plaza. It will be on DOT land.

Councillor Rankin noted staff will prepare a report which would include a recommendation. It is possible that staff could make a recommendation to reject the application. We are hearing tonight some condemnation of the concept. It is very much a rural area. This development could reduce car trips into town. The type of uses will require some scrutiny if the proposal goes forward. He was also hearing concerns about quality and quantity of water. The local community wants assurances from the right source that matters will not get worse and want to see the inclusion of clauses to cover the cost of any damages. It is difficult if a well runs dry to determine who is to blame and who will fix it and rebuild their quality of life. If it goes forward, he was hearing the hydrological studies should reference the adjacent community and somebody with the expertise needs to sign off on that.

Councillor Rankin indicated with regard to drainage, it is hard to determine later on whether a proposal made matters worse and how to fix it. There is more water run-off with asphalt and a roof. Can we satisfy ourselves that the safety is not impaired? Council does not get into the marketing. The development agreement can set the rules.

Mr. Ouellet advised there are implementation policies which indicate we have to look at water and septic and if they cannot be mitigated, then obviously we cannot recommend approval.

Ms. O'Brien indicated that in terms of quality of life, they have a nice green space there now. She lived next door and had wildlife in her yard. They are going to put a development at the end and they will have teenagers there at night and there will be rats from the garbage bins. They have quite a few buildings on the Prospect Road now that are boarded up and are an eye sore. Why not take that space and re-use it instead of taking a green space? In five years time they will have a bigger eyesore on the Prospect Road if this does not work.

An individual commented they were sure Imperial Oil, Shell, and Petro-Canada all did their marketing studies; they are all closed. Two of the buildings are an eyesore. Imperial Oil did tear their building down. Why not use that land? Another individual countered it is contaminated.

Mr. John Ghosn questioned why the City identified this as a potential site for commercial development.

Mr. Ouellet responded it was his understanding the developer asked that it be set aside for commercial development at the time the municipal planning strategy was being prepared.

Mr. Saleh referenced the preamble to Policy RA-9 from the MPS which states: "This land is highly visible and accessible to all communities situated throughout the Plan Area and the residents welcome the high degree of convenience which will be enjoyed with the provision of a full service grocery store and other retail services from the site."

Mr. Ghosn commented it appeared the location was identified because of its proximity.

Mr. Saleh indicated this building will not be run-down because of the proposed materials and design. One of the provisions we often see in development agreements relates to the maintenance

of properties. This is a legal document that specifies the quality of the building and the maintenance of the building later on. The owner of the land is bound by that agreement.

An individual questioned how they would do the traffic impact study.

Mr. Ouellet responded there are counts that exist which are normally done by DOT and are provided to the traffic engineers. They take current data and check what is going on at that given time and then project how much more traffic the development will put on the road and come up with the results. If there are issues, they try to address them.

Mr. Ed Andrews questioned what time of day the impact study was done. He has been complaining about this road for fifteen years. Most surveys are done between 9 and 12 o'clock and 1 and 3 o'clock when there is no traffic. From West Dover to Goodwood, you have 6500 people. He thought they would be wasting their money to put that mall in without knowing what the people want.

An individual asked about restrictions on hours of operation, noting it would be disruptive to have something there between 2 and 3 o'clock in the morning.

Mr. Ouellet responded the agreement can address hours of operations and asked for suggestions.

Mr. Saleh noted they are marketing this as a neighbourhood commercial plaza. Plazas do not house night clubs and they will not be open at 2 or 3 o'clock in the morning.

Ms. O'Brien expressed concern with what could happen in the parking lot after hours.

Mr. Stewart questioned if they were looking at a fast food restaurant in the one building.

Mr. Saleh responded it is being proposed as a drive-thru restaurant. It could be a coffee shop such as Tim Hortons or a MacDonalds or a Harveys. These businesses will probably close at 5 or 6 o'clock so if a business at this end is open until 10 or 11 o'clock, that will minimize activities by other children.

Ms. O'Brien noted there is a proposed roadway on the end behind where they have the drive-thru restaurant, and questioned whether they would take the 25' beside that proposed roadway as a buffer.

Mr. Saleh responded yes. The proposed driveway is outside their property line. The setback from the closest point is 32'. They are proposing to leave existing trees for 25'.

Mr. O'Brien questioned who they would call if there are water or drainage problems after the plaza is built.

Mr. Saleh responded his responsibility to them through the development agreement process is to make sure the problems mentioned do not happen.

Ms. O'Brien asked Mr. Saleh from his professional estimation whether a shopping centre like this would lower the value of adjacent properties.

Mr. Saleh responded he did not think this type of neighbourhood commercial plaza would decrease the value of their property. They will not be able to see it because there will be no tree cutting. Even if they could see it, it is a one storey building that is 27' high and 60' wide. In terms of bulk and scale, it is not a big building. He was not a professional appraiser, but he did not think this will decrease their property value. He thought this would bring life, business, and services to the local residents. If the concerns can be addressed, it can be a good thing for the developer and the neighbourhood. The developer who owns the property bought it because he thinks he can develop it.

Ms. O'Brien commented people who live in the County live there for a reason. If you want services, you can live in the city.

Mr. Saleh noted this is not a Walmart or a Superstore. It is a 20'x60' service shop which is geared to the local community. These services are to service a small neighbourhood.

Mr. McAvoy said he hoped the proposed restaurant did not have gambling machines. If there is a problem, the developer is not going to admit to it and the City who agreed to let this go ahead, is not going to admit to a problem. Who would the residents complain to?

Mr. Ouellet indicated there have been examples where we approved stormwater management plans and after the fact residents cut down trees which caused problems for their neighbour. Unfortunately it becomes a visual problem for the neighbour. We are only responsible to ensure they follow proper procedures. Under an agreement process like this, especially if the stormwater management plan is included as part of the agreement, we can take them to court. That has been done before. If it is included with the agreement then they would have to follow that plan and if they did not, we would have to take legal measures against them.

Mr. Saleh advised he was involved in a similar process in Bedford where all the homes around the building were on well and septic, but the language of the development agreement dealt with that issue. It can be done to protect the best interests of the adjacent residents. In the end, they were able to negotiate an agreement which was able to address all those concerns.

Ms. MacDonald noted he mentioned it being in the city.

Mr. Saleh indicated that in the last example, they were on well and septic.

Mr. Ouellet pointed out stormwater management plans are normally done at the building permit stage. In some instances, we ask for it to be done ahead of time. It can be included with the development agreement, which he would be asking for in this instance to ensure we have a better agreement.

Ms. Regan asked if DOT would make the decision or if they had any input into that decision.

Mr. Ouellet indicated DOT has authority for roads in this area. They are the expert in the matter of rural roads and we get a recommendation from them. He was not in a position to second guess their recommendation. What he could do is bring forward their concerns to DOT.

Ms. Regan said they are concerned about getting out of their subdivision safely, not into the plaza. They will have an increased delay getting out of there. The geometry has changed as well. There is a significant impact to people coming out of Stoney Beach Road.

Mr. Peters noted the sign on the Prospect Road refers to this as being a rezoning, and questioned whether the property is being rezoned to commercial.

Mr. Ouellet responded the zone is residential and will stay as that. It is a residential area. The agreement is like another layer on top of the property. There was a policy included in the plan ten years ago that said they believed a commercial establishment could be applied for through the development agreement process. If they were able to rezone, then they could do whatever is allowed in the zone whereas the development agreement allows for tighter control such as addressing the hours of operation and restricting certain types of uses. We could write into the development agreement that no VLT machines are allowed. We can control where the garbage will be placed, the lighting, and the number of parking spaces.

Councillor Rankin indicated he was involved at the public hearing when the MPS for this area was adopted and knew there were hundreds of hours of community meetings. Sometimes it is important to come forward at the right time or you miss something. Once things get set in the plan, those are the ground rules. He has heard people in the rural areas say please do not shut down our community and give us some local services. If we can protect the community in terms of drainage and water, then what are they saying tonight? In terms of traffic, we will not make matters worse. He wanted to see the study. Are these local services desirable in the community?

An individual said not to her.

Dave... stated he was not interested in having this development. It will be a nightmare getting out of Stoney Beach Road.

Another individual stated the development would affect their quality of life.

Ms. Darlene Comeau suggested they should assess the traffic at the top of Stoney Beach Road between 6:30 and 9:30 a.m., and the engineers should come out when the water is flowing past their houses.

Ms. O'Brien said she owned the property beside the proposal. When they built their house, they had ditches built on both sides because of the run-off from the bank behind them. She has a river on both sides which almost overflows onto the 3333 and that is from a little building lot.

Mr. Ouellet noted it is very clear there are drainage concerns that have to be addressed.

Mr. Greg Skelhorn stated he believed it would benefit the community to have services.

Mr. Forbes questioned what the start-up date would be if this is approved.

Mr. Saleh responded this process would probably take another three to five months. The developer wants to have a summer construction.

Ms. Oakley questioned whether it would be helpful if they put the driveway on the right hand side of the development instead.

Mr. Saleh noted there were concerns raised tonight which they would try to find solutions to. If there is a different way of doing things, they will adjust their design to accommodate that.

An individual stated they are not against having development their area; they are against having it go there because of concerns related to water and septic and the road.

Councillor Rankin commented on the excellent turnout and asked staff to talk about the next step.

Mr. Ouellet advised the staff report becomes a public document on the Friday before the Council meeting. Western Region Community Council meets on the last Monday of each month. The public hearing is held a month later. The report is available online, it can be picked up at our office, or it can mailed out.

Councillor Rankin asked if it was fair to say no to an additional PIM.

Mr. Ouellet advised the planning department does not normally hold another meeting unless a year has passed or the development has changed. The councillor can hold a meeting or the developer can hold its own meeting.

Adjourn

The meeting adjourned at approximately 9:00 p.m.