



P.O. Box 1749
Halifax, Nova Scotia
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Item No. 8.1.1(i)
Harbour East-Marine Drive Community Council
February 5, 2015

TO: Chair and Members of Harbour East-Marine Drive Community Council

Original signed

SUBMITTED BY: _____
Bob Bjerke, Chief Planner and Director of Planning and Development

DATE: December 22, 2014

SUBJECT: **Case 19266: Substantive Amendment and Discharge of Development Agreement at 174 Ochterloney Street, Dartmouth**

ORIGIN

Application by G. Carl Brown.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Harbour-East Marine Drive Community Council:

1. Approve by resolution of Council the proposed Discharging Agreement, as set out in Attachment A of this report for 174 Ochterloney Street, Dartmouth;
2. Require the Discharging Agreement be signed by the property owner within 120 days, or any extension therefore granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end;
3. Move Notice of Motion to consider the proposed amending development agreement, as set out in Attachment B of this report, to permit the internal lighting of a ground sign at 174 Ochterloney Street, Dartmouth, and schedule a public hearing;
4. Approve the proposed amending development agreement, as set out in Attachment B of this report, to permit the internal lighting of a ground sign at 174 Ochterloney Street, Dartmouth to take effect upon the registration of the Confirmatory Agreement (Attachment C); and
5. Require the amending development agreement be signed by the property owner within 120 days, or any extension therefore granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

An application has been submitted by G. Carl Brown on behalf of the property owner, Imperial Oil, to enable the construction of an internally lit ground sign, by development agreement, at 174 Ochterloney, Dartmouth (Map 1). An existing and amending agreement are registered against this property and regulate what signage is permitted. Under the amending agreement a new ground sign is not permitted; therefore this agreement will need to be discharged in order to enable the proposed sign. Under the existing agreement a new ground sign is permitted, but only one that is externally lit; therefore a substantive amendment to the existing agreement is required to enable the internally lit sign. Finally, as the existing agreement was reviewed, a number of administrative errors were found. A new confirmatory agreement has also been prepared to adjust these inconsistencies.

Location, Designation, Zoning and Surrounding Area

Subject Property	174 Ochterloney Street, Dartmouth
Location	adjacent to Sullivans Pond with a mix of low and medium rise residential, and commercial uses in close proximity
Lot Area	26,200 square feet (2434 square metres) in area with approximately 525 feet (160 metres) of road frontage
Community Designation	DB (Business District) under the Downtown Dartmouth Secondary Planning Strategy (SPS) (Map 1)
Zoning	DB (Downtown Business District Zone) under the Downtown Dartmouth Land Use By-Law (LUB) (Map 2)
Current Use(s)	gas bar, car wash, convenience store,
Surrounding Use(s)	Residential land uses on the Prince Albert Road side; park, community centre and autobody land uses on the Ochterloney Street side

Existing and Amending Development Agreements

On June 6, 2002 Harbour East Community Council entered into a development agreement to permit the expansion of the Esso service station located at 174 Ochterloney Street, Dartmouth. The development agreement permitted the replacement of a small kiosk with a larger convenience store as well as changes to the parking and signage on the property. The agreement enabled the removal of eight existing signs (including two ground signs) to be replaced with a single larger ground sign located between the car wash and Ochterloney Street.

Imperial Oil removed four of the existing signs. On May 3, 2007, Harbour East Community Council entered into an amending agreement which removed the ability to retain the single larger ground sign and enabled the existing four signs to remain (two of which are ground signs). The four remaining signs include two corporate identification signs, one price sign and one promotional sign.

Confirmatory Agreement

On June 6, 2002, staff report (Case 00443) included a copy of the proposed development agreement. Section 2.8.3 of this proposed development agreement read *"The base of the new ground sign shall be brick which is complementary in colour to the new convenience store. Landscaping in the form of shrubs shall be provided around the sign base in the planter."* At the same meeting, staff also presented a Supplementary Report outlining additional provisions and changes to the proposed agreement including adding the following condition to section 2.8.3: *"The Developer further agrees that this sign may only be illuminated through the use of appropriate external spot lighting."* Schedule B "Site Plan" attached to the proposed development agreement provided the located of the proposed ground sign.

Council approved both the original Section 2.8.3 and the additional wording at the June 6, 2002 meeting. However, the entire section of 2.8.3 was inadvertently deleted from the development agreement as registered at the land registry. The sign location on Schedule B "Site Plan" was also inadvertently deleted. These administrative errors will be corrected through a confirmatory process (Attachment C) which does not require any direction by Council.

Discharge Agreement and Substantive Amendment to Existing Agreement

The applicant is now ready to locate a new ground sign on the property; however the amending development agreement does not permit this to occur and the existing development agreement is missing the enabling section 2.8.3. to erect the ground sign. Therefore, the amending development agreement must be discharged and the approved section 2.8.3 and Schedule B of the existing development agreement be reinstated through a Confirmatory Agreement (Attachment C) registered with the NS Land Registry.

The consideration of an internally lit ground sign is a substantive amendment to the development agreement and a decision shall be made by Harbour East-Marine Drive Community Council at a public hearing.

The *Halifax Regional Municipality Charter* provides Council with a mechanism to discharge development agreements. Part VIII, Clause 244, identifies that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner. The *HRM Charter* does not require a public hearing for the discharge of the amending agreement, which may be discharged by resolution of Council.

DISCUSSION

MPS Policy

The existing development agreement, approved by Community Council in 2002, is enabled through Policy B-9 and Policy D-1 (Attachment D) of the Downtown Dartmouth SPS. Policy B-9 requires that all development on the block bounded by Ochterloney Street and Prince Albert Road be considered only through the development agreement process, due the historical significance of the past canal and manufacturing uses on the site. Policy D-1 established design criteria for site development.

Neighbourhood Compatibility

Staff determined in 2002 that a single larger sign would reduce the visual clutter of having many small signs on the property and would result in an overall improvement to the site and is consistent with the intent of the Downtown Dartmouth policies. This opinion remains the same. Imperial Oil has indicated they have no intention of illuminating the ground sign beyond the hours which the station operates which is until 11:00 pm. The existing development agreement requires that any site lighting be designed so as to focus light on the property and not be directed onto adjacent properties either directly or by reflection

Conclusion

Staff recommends the discharge of the amending development agreement from the lands at 174 Ochterloney St, Dartmouth, as described in Attachment A. Staff also recommend approval of the substantive amendment request to internally light the ground sign, as described in Attachment B.

FINANCIAL 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.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. A public information meeting is not required for the discharge of a development agreement, nor is a public hearing. The decision to discharge a development agreement is made by resolution of Community Council.

A public information meeting was not held for the substantive amendment (internal lighting of the ground sign). Instead, notification and invitation to comment was sent to property owners within the area shown on Map 2. One response from the community was received, indicating concern with potential water flowing into the street. This is an item that can be addressed during detailed site design and be reviewed through the permitting process. A public hearing has to be held by Community Council before they can consider approval of any amendment to the Development Agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area will be notified as shown on Map 2. The proposed discharge will potentially impact, but not limited to, the following stakeholders: local residents, property owners and general public in the area.

ENVIRONMENTAL IMPLICATIONS

The proposal meets all applicable environmental policies contained in the MPS. No additional concerns were identified beyond those discussed in this report.

ALTERNATIVES

1. Community Council may choose to refuse to approve the discharge and amending agreement and, in doing so, must provide reasons why the agreement does not reasonably carry out the intent of the MPS. A decision of Community Council to refuse this amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Community Council may choose to approve the proposed amending agreement subject to modifications. This may necessitate further negotiation with the applicant, a supplementary staff report and an additional public hearing. A decision of Community Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

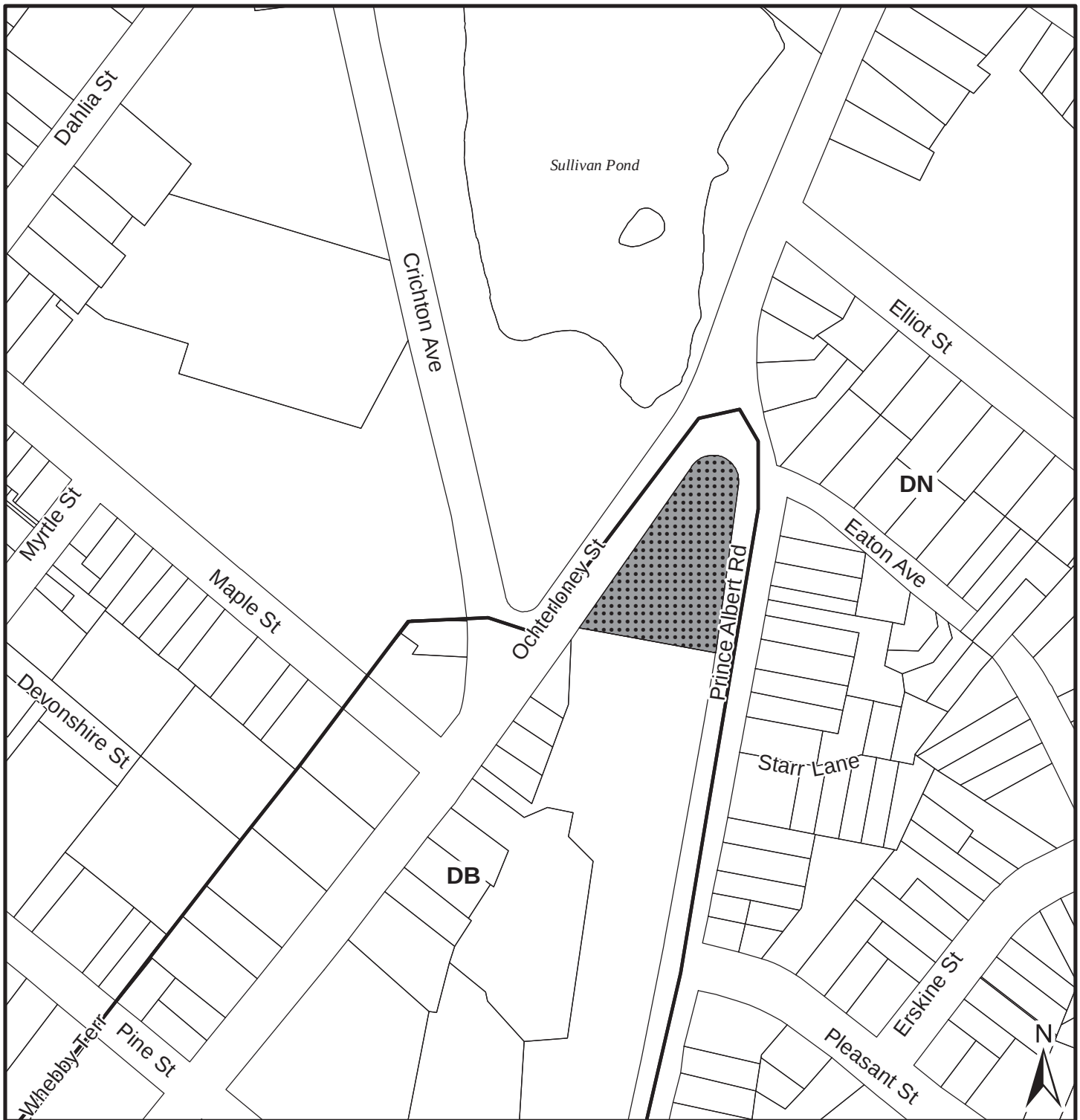
Map 1: Generalized Future Land Use
Map 2: Zoning and Notification

Attachment A: Proposed Discharging Development Agreement
Attachment B: Proposed Second Amending Development Agreement
Attachment C: Confirmatory Agreement
Attachment D: Relevant Policy from Downtown Dartmouth SPS

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Darrell Joudrey, Planner, Development Approvals, 902.490.4793

Report Approved by: Original signed
Kelly Denty, Manager of Development Approvals, 902.490.4800



Map 1 - Generalized Future Land Use

174 Ochterloney Street
Dartmouth

HALIFAX



Subject Property

Downtown Dartmouth
Plan Area

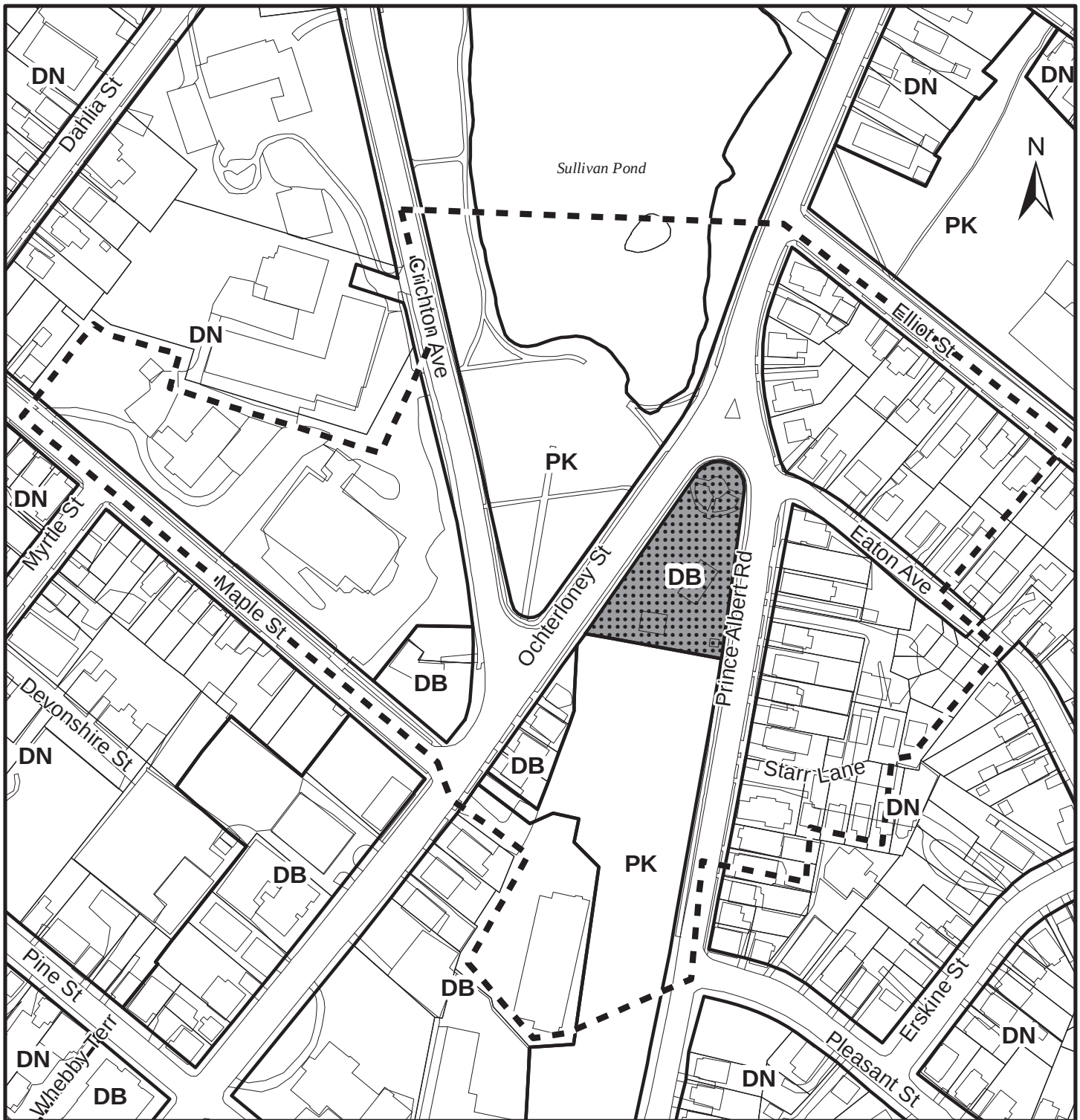
Designation

DN Downtown Business District
DB Downtown Neighbourhood



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.



Map 2 - Zoning and Notification

174 Ochterloney Street
Dartmouth

 Subject Property

 Area of Notification

Downtown Dartmouth
Plan Area

Zone

DN Downtown Business District
DB Downtown Neighbourhood
PK Park and Open Space

HALIFAX

0 20 40 60 m

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

The accuracy of any representation on this plan is not guaranteed.

**Attachment A:
Proposed Discharging Agreement**

THIS DISCHARGING AGREEMENT made this day of , 2015,

BETWEEN:

INSERT NAME OF CORPORATION/BUSINESS LTD.

a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY

a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 174 Ochterloney Street, Dartmouth and which said lands are more particularly described in Schedule A hereto (hereinafter called "the Property");

AND WHEREAS the Harbour East Community Council of Halifax Regional Municipality approved an application by the Developer to enter into a development agreement to allow for the construction of a convenience store in conjunction with an existing retail gasoline station and car wash on the Lands (Municipal Case 00443) which said development agreement was registered at the Registry of Deeds at Halifax in Book No. 7116 at Pages 660 to 675 as Document Number 32597 (hereinafter called the "Existing Agreement");

AND WHEREAS the Harbour East Community Council of Halifax Regional Municipality approved an amending development agreement to allow certain existing ground signs to remain on the Lands (Municipal Case 00780) which said amending development agreement was registered at the Registry of Deeds at Halifax as Document Number 88681839 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Existing Agreement and First Amending Agreement applies to the Lands shown on Schedule A attached hereto;

AND WHEREAS the Developer has requested that the First Amending Agreements be discharged from the Lands;

AND WHEREAS, pursuant to the procedures and requirements contained in the Halifax Regional Municipality Charter, the Harbour East-Marine Drive Community Council of the Municipality approved this request by resolution at a meeting held on [INSERT – date], referenced as Municipal Case Number 19266;

THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

1. That the Lands are hereby discharged from the First Amending Agreement.

WITNESS that this Discharging Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2015.

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Corporation Name and Registered Owner Name)

Witness

Per: _____

SIGNED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

AND WHEREAS the Harbour East Community Council for the Municipality approved this request at a meeting held on _____, referenced as Municipal Case Number 19266;

THEREFORE, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree to the following amendments to the Confirmatory Development Agreement:

1. Section 2.8.3 of the Confirmatory Development Agreement shall be amended by deleting the sentence "The Developer further agrees that this sign may only be illuminated through the use of appropriate external spot lighting."
2. The Confirmatory Development Agreement shall be amended by deleting "Schedule E" and replacing it with a new Schedule E-1 attached hereto as Schedule E-1.

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the
presence of:

(Insert Owners Names)

Per: _____

SEALED, DELIVERED AND ATTESTED to by
the proper signing officers of Halifax Regional
Municipality, duly authorized in that behalf, in the
presence of:

HALIFAX REGIONAL MUNICIPALITY

Per: _____

Mayor

Per: _____

Municipal Clerk

**Attachment C
Confirmatory Agreement**

THIS AGREEMENT made this day of , 2015,

BETWEEN:

(Insert Registered Owner Name)
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY,
a body corporate, in the County of
Halifax, Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of lands located at 174 Ochterloney Street (PID #00230912), Dartmouth, Nova Scotia, and which said lands are more particularly described in Schedule 'A' to this agreement (hereinafter called the "Lands");

AND WHEREAS the Harbour East Community Council of Halifax Regional Municipality approved an application by the Developer to enter into a development agreement to allow for the construction of a convenience store in conjunction with an existing retail gasoline station and car wash on the Lands (Municipal Case #00443) which said development agreement was registered at the Registry of Deeds at Halifax in Book No. 7116 at Pages 660 to 675 as Document Number 32597 (hereinafter called the "Existing Agreement");

AND WHEREAS the Harbour East Community Council of Halifax Regional Municipality approved an amending agreement to allow certain existing ground signs to remain on the Lands (Municipal Case #00780) which said amendment agreement was registered at the Registry of Deeds at Halifax as Document Number 88681839 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Harbour East-Marine Drive Community Council for the Municipality approved by resolution a discharge agreement discharging the First Amending Agreement (Municipal Case #19266) which said discharge agreement was registered at the Registry of Deeds at Halifax as Document Number (insert number) (hereinafter called the "Discharge Agreement");

AND WHEREAS (insert owner name) and the Halifax Regional Municipality is entering into a Confirmatory Agreement to document and correct an error at the time of register of the Existing Agreement. Section 2.8.3 was inadvertently deleted and the sign location on Schedule B "Site Plan" was also inadvertently deleted.

THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

- 1.1 The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.
- 1.2 Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Land Use By-law for Downtown Dartmouth, as may be amended from time to time.
- 1.3 Pursuant to Section 1.2 and 1.3, 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 and Subdivision By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer or lot owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands. For greater clarity, the following municipal bylaws are identified which the Developer hereby agrees to comply with:

Bylaw B-201 -Building Bylaw
Bylaw B-300 -Blasting Bylaw
Bylaw N-200 -Noise Bylaw
Bylaw S-300 -Streets Bylaw
- 1.4 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 and Subdivision 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.
- 1.5 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 statutes, regulations, by-laws or codes applicable to any lands owned by the Developer or lot owner.
- 1.6 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: USE OF LANDS AND DEVELOPMENT PROVISIONS

2.1 Schedules

The Developer shall develop and use the Lands in conformance with the site plans, design drawings, and renderings, attached as the following Schedules to this Agreement:

Schedule 'A'	Legal Description of the Lands
Schedule 'B'	Site Plan
Schedule 'C'	Building Elevations
Schedule 'D'	Landscaping Plan
Schedule 'E'	Ground Sign

2.2 Permitted Uses

2.2.1 The use of the Lands permitted by this Agreement, subject to its terms and as generally illustrated on the Schedules attached hereto, are the following:

- (a) a retail gas bar, meaning retailing of gasoline and gasoline products, lubricating oil, and other items normally accessory to a gas bar use;
- (b) a single bay car wash;
- (c) a convenience store,
- (d) advertising signs as permitted by this Agreement, and
- (e) open space areas, landscaping and walkways.

2.2.2 Automotive repair (including mechanical repair, auto body work, windshield service, brake repair, exhaust repair, tire shops and other similar activities) and vehicle sales shall not be permitted on the Lands.

2.3 Buildings/Architecture

2.3.1 The Developer may construct a building for convenience store use on the Lands, which is in conformance with Schedules 'B', and 'c' attached hereto, including the location, size, height, and architectural design, including facade features and type of exterior materials. The rear wall of the convenience store shall include fenestration to provide relief to the wall, which shall consist of integrated brick columns or other suitable detailing.

2.3.2 The existing car wash may be maintained on the Lands, and shall be repainted or rec1ad to complement the exterior colour scheme of the convenience store building.

2.3.3 Any mechanical or ventilation equipment which is to be mounted behind the mansard roof of the convenience store in such a way as to be screened from view at ground level.

2.4 Parking and Circulation

2.4.1 All external driveways and circulation aisles shall be concrete or asphalt, and the perimeter of all driveways, parking areas and landscaped islands, as illustrated by the Schedules, shall be defined by concrete curb. Driveway widths shall be as agreed to at the building permit stage by both the Developer and the Municipality.

2.4.2 Two customer parking spaces shall be provided in the existing asphalt area over the gasoline storage tanks as shown on Schedule' B', plus an accessible

parking space as required by the National Building Code. Two staff parking spaces shall be provided in the southeast corner of the site as shown on Schedule 'B'.

2.5 Streets and Municipal Services

- 2.5.1 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 sanitary sewer system, water supply system, storm water sewer and drainage system, driveway accesses, and utilities. Such approvals shall be obtained in accordance with all current applicable by-laws, standards, policies and regulations of HRM and other approval agencies, except as provided for herein, or as otherwise approved by appropriate staff. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer.
- 2.5.2 The Developer shall have prepared by a Professional Engineer for submission and review a detailed site plan illustrating proposed servicing, access and drainage for the site. Said plan shall be subject to review and approval by the Development Engineer.
- 2.5.3 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, 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 Engineer.
- 2.5.4 No occupancy permit shall be issued until all required street improvements and/or reinstatement, municipal servicing systems and utilities have been completed, except that the occupancy permit(s) may, at the discretion of the Building Inspector, be issued subject to security being provided to the Municipality in the amount of 120 per cent of the estimated cost of completion of all outstanding work. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable, automatically renewable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of all work, as described herein and illustrated on the Schedules, and as approved by the Municipality.
- 2.5.5 The Developer shall if required submit a plan showing proposed hoarding for the site, for the purpose of separating site work from the adjacent sidewalks and protecting the public during any stage of construction. Where hoarding is proposed to be located within the street, an Encroachment License shall be obtained, and the hoarding shall be erected in conformance with municipal standards prior to commencement of any site works or construction.

2.6 Public Space

- 2.6.1 The Developer agrees to provide access to the Municipality over the Lands for the purpose of providing a trail connection to adjacent municipally-owned

lands. This area shall be within the existing municipal easement in the southwest corner of the property. The trail connection when designed and built by the Municipality may consist of hard-surfaced trail, directional and interpretive signage, benches and other related items. The Developer agrees to remove asphalt from within this area and re-grade and reinstate with curb and sod as shown on Schedule 'B', and to remove trees on the bank between the car wash and the Ochterloney Street sidewalk. Similar uses may be placed by the Municipality on the bank between the car wash and the adjacent municipally-owned lands. Any structures within these two areas shall be subject to review and approval by the Developer, to ensure that visibility of the site is not reduced from Ochterloney Street.

- 2.6.2 The Developer agrees to provide easement and access to the Municipality for those portions of the Lands shown as "Park Area" on Schedule "B" -Site Plan, which includes all the landscaped area at the corner of Prince Albert Road and Ochterloney Street. This area may be used by the Municipality for park, trail and interpretive uses. In the event of any work on other portions of the Lands by the Developer which impacts on this area, full reinstatement shall be undertaken at the Developer's expense. The Municipality agrees that no structure, other than pedestrian-oriented signs not exceeding one metre in height and park benches, shall be installed in this area, in order to maintain visibility of the commercial use from the streets.
- 2.6.3 The Municipality agrees that the Developer shall be absolved and held harmless of any and all responsibility and liability which may arise as a result of use by the public of trail and parkland facilities provided and maintained by the Municipality on the Lands as outlined in Sections 2.6.1 and 2.6.2.
- 2.6.4 The Developer agrees that the washroom in the building shall be available and accessible to the public during open hours.

2.7 Landscaping and Site Lighting

- 2.7.1 The Lands shall be landscaped as illustrated and described on Schedules 'B' and 'D'. The Development Officer, on the advice of the Manager of Parks and Natural Services, may approve modifications to the species of plant stock, and the number, size and location of plant stock, provided such modifications, in the opinion of the Development Officer, enhance the attractiveness and visual appearance of the Lands including the planting of a private hedge in the area shown as "Park Area", to be planted immediately north of the vents from the underground storage tanks.
- 2.7.2 The "Good Neighbour Fence" as shown on Schedule D shall consist of wood, and shall not exceed a height greater than four feet. The design of the fence shall incorporate attractive decorative detailing, such as post caps and arched spans between posts. The fence shall be maintained in good order.
- 2.7.3 No occupancy permit shall be issued for the building on the Lands until such time as the landscaping has been completed as applicable, provided however

that an occupancy permit may be issued provided the Developer supplies a security deposit in the amount of 120 per cent of the estimated cost to complete the landscaping. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer.

- 2.7.4 Primary site lighting shall be turned off during non-business hours. During such time, minor security lighting shall be permitted. Any new lighting shall be designed appropriately to illuminate the Lands only, and be directed away from nearby residential properties.

2.8 Signs

- 2.8.1 Signs shall be permitted only as shown on the Schedules. No mobile/moveable signs or billboards shall be permitted on the Lands, other than a sandwich board sign located in the grassed area directly between Ochterloney Street and the pump islands. Such sign shall be removed when the site is not open for business.
- 2.8.2 The Developer agrees to remove existing ground signs, as shown on Schedule 'B', and cantilevered pump signs within one week of the installation of the new ground sign.
- 2.8.3 The base of the new ground sign shall be brick which is complementary in colour to the new convenience store. Landscaping in the form of shrubs shall be provided around the sign base in the planter. The Developer further agrees that this sign may only be illuminated through the use of appropriate external spot lighting.
- 2.8.4 Building fascia signs shall be permitted as shown on Schedule 'C'.
- 2.8.5 Traffic control signs and pavement markings shall conform to the "Manual of Uniform Traffic Control Devices" and/or "Official Highway Signs for Nova Scotia".

2.9 Outdoor Storage and Display

- 2.9.1 No outdoor storage shall be permitted on the Lands. No outdoor display shall be permitted on the Lands except underneath the canopy and immediately in front of and adjacent to the convenience store.
- 2.9.2 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from any street or sidewalk. Appropriate waste receptacles shall be provided adjacent to the store and gas pumps.

2.10 Maintenance

- 2.10.1 The Developer shall maintain and keep in good repair all portions of the development and Lands, including but not limited to, the interior and exterior of the buildings, retaining walls and fencing, lighting, walkways, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, and snow removal/salting of walkways, driveways and parking areas, clean-out of any storm water treatment facilities.
- 2.10.2 Notwithstanding the foregoing, the Municipality shall be responsible for the maintenance of the public landscaped areas as referenced in Sections 2.6.2 and 2.6.3.

2.11 Environmental Matters

- 2.11.1 Prior to the commencement of any site works on the Lands, the Developer shall submit a detailed Site Grading and Drainage Plan. Such plan shall require the approval of the Development Officer, on the advice of the Development Engineer. Modifications to the site grading and finished elevations, as indicated on the Plan, may be approved, provided such modifications further the intent of this Agreement.
- 2.11.2 The Developer further agrees that prior to the commencement of any work on the Lands, or associated off-site works, a detailed Site Disturbance Plan shall be submitted to the Development Officer, indicating the sequence of construction, the areas to be disturbed, and all proposed detailed erosion and sedimentation control measures and storm water management measures to be put in place prior to and during development. The plan shall be reviewed by, and require the approval of the Development Officer, on the advice of the Development Engineer and any other applicable agencies, prior to any site works being undertaken.
- 2.11.3 Prior to the commencement of any work on the Lands, or associated off-site works, the Developer shall post security in the amount of \$5,000.00 to ensure that all environmental protection measures are properly implemented and maintained. The security shall be in favour of HRM and may be in the form of a certified cheque or irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer within six (6) months of the date of issuance of the applicable occupancy permit, provided all measures for environmental protection have been implemented to the satisfaction of the Development Officer.

PART 3: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

- 3.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax,

Nova Scotia and the Developer shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.

- 3.2 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this Agreement is discharged by the Council.
- 3.3 Notwithstanding any subdivision approvals granted pursuant to this Agreement or any transfer or conveyance of any lot or of all or any portion of the Property, this Agreement shall continue to apply to and bind the Developer, the Property and each lot and the Developer shall continue to be bound by all terms and conditions of this Agreement.
- 3.4 Upon the transfer of title of any lot, the owner thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.
- 3.5 Notwithstanding Section 3.4 or any transfer of title to a lot, the Developer shall continue to be responsible for the fulfilment of the Developer's covenants under this Agreement and any Subdivision Agreement entered pursuant to this Agreement.
- 3.6 In the event that construction on the Lands has not commenced within 2 (two) years from the date of registration of this Agreement at the Registry of Deeds, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement, whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction. For the purposes of this section, "commencement of construction" shall mean the pouring of the footings for the foundation for the building.
- 3.7 Upon the completion of all development on the Lands, or portions thereof, or after 10 (ten) years from the date of registration of this Agreement at the Registry of Deeds, 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;
 - (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, as may be amended.

PART 4: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

- 4.1 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 one day of receiving such a request.

4.2 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 defence based upon the allegation that damages would be an adequate remedy;
- (b) the Municipality may enter onto the Property and perform any of the covenants contained in this Agreement whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants may be recovered from the Developer by direct suit and such amount shall, until paid, form a charge upon the Property 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; and/or
- (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

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

SIGNED, SEALED AND DELIVERED in the
presence of:

(Insert Registered Owner Name)

Witness

Per: _____

SIGNED, DELIVERED AND ATTESTED to by
the proper signing officers of Halifax Regional
Municipality, duly authorized in that behalf, in
the presence of:

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

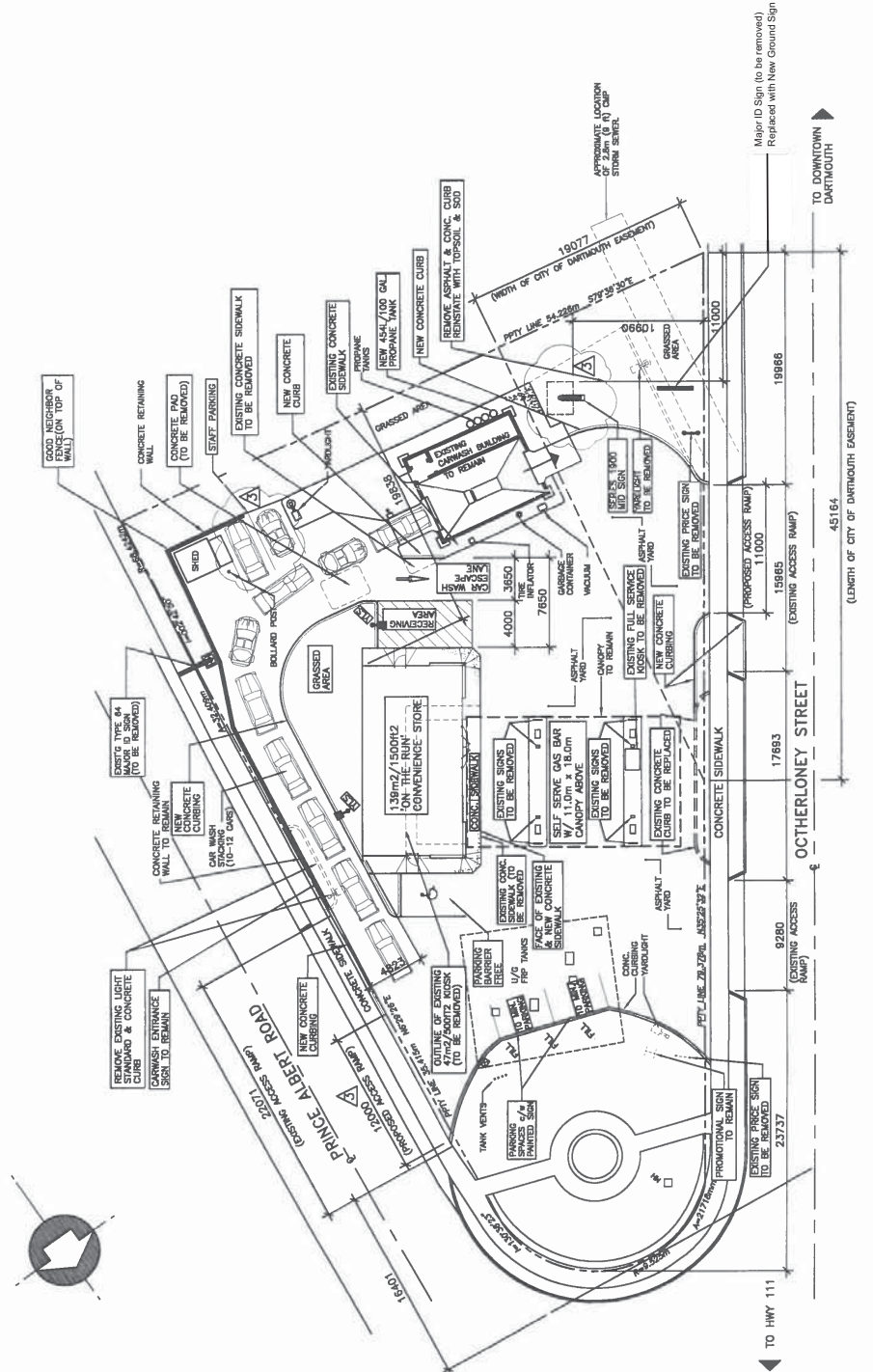
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Project/Project 174 OCHTERLONEY STREET DARTMOUTH, N.S.				SAP No. SAP RWIN No. RWIN		32A0282-02P	
Title/Title PROPOSED SITE PLAN				Schema Proposition: 03 Sheet/Fautille: 001			
Scale (22"x34") 1:200		Scale (11"x17") 1:400		Date 01 12 04		By/Par AMEC	
				P.M./G.P. E.B.		Rev. No./Rév. 3	

Schedule B - Site Plan

NOTES:

1. PROPERTY & EXISTING SITE INFORMATION NOTED ON THIS DRAWING IS TAKEN FROM PREVIOUS IMPERIAL OIL LIMITED DRAWINGS & IS SUBJECT TO VERIFICATION.



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HALIFAX, NOVA SCOTIA

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IMPERIAL OIL / L'IMPERIALE

Architectural/Engineering Services 90 Wynford Drive,
Service de l'ingénierie Don Mills, Ontario
TEL. (416) 441-7840/7847 M3C 1K5

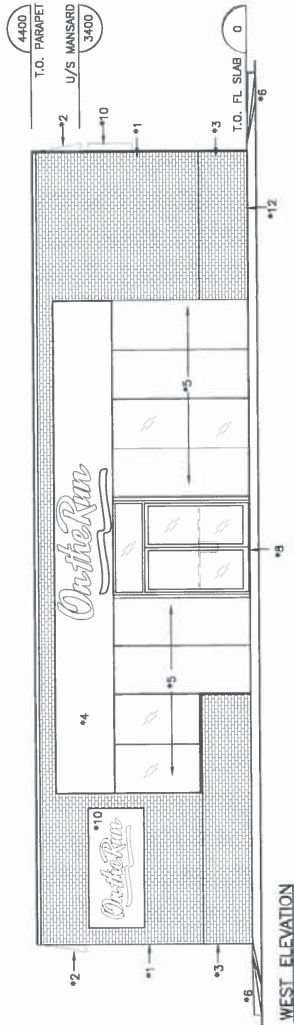
MARKETING SERVICES/Services du Marketing

Date	Revision	By
02 03 20	0 ISSUED FOR REVIEW	AMEC

Project/Projet 174 OCHTHERLONEY STREET DARTMOUTH, NOVA SCOTIA			SAP No. SAP RWIN No. RWIN 32A0282-08P		
Title/Titre EXTERIOR ELEVATIONS			Scheme Proposition: 03 Sheet/Fauille: A05		
Scale Schéma (22"x34") 1:50	Scale Schéma (11"x17") 1:100	Date 02 03 20	By/Par AMEC	P.M./C.P. E.B.	Rev.No./Rév. 0

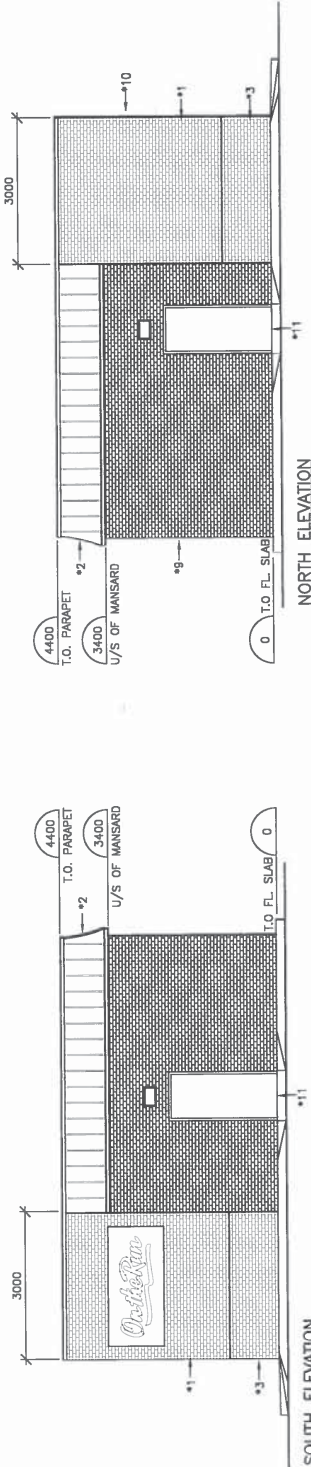
REFERENCE NOTES

- *1 ALBA STONE PRODUCTS, NORMAND SERIES 321, SPLIT-FACE BRICK, COLOUR 23F (ZEPHYR), CONCAVE TOOL ALL JOINTS.
- *2 PREFINISHED STEEL ROOFING COLOUR P-13 GREY
- *3 ALBA STONE PRODUCTS, NORMAND SERIES 321, SPLIT-FACE BRICK, COLOUR 51F (PINK/BROWN), CONCAVE TOOL ALL JOINTS.
- *4 ILLUMINATED 'ON THE RUN' SIGN BOX
- *5 MULLIONLESS GLAZING V-KOOL 70 FILM APPLIED TO STORE FRONTS
- *6 BARRIER FREE ACCESS
- *8 STOREFRONT DOORS AND FRAME (CLEAR, ANODIZED ALUMINUM)
- *9 50mm FACE BRICK ANTOQUE RED
- *10 N/A
- *11 NON PUBLIC DOOR & FRAME, PAINT TO MATCH WALL FINISH *3

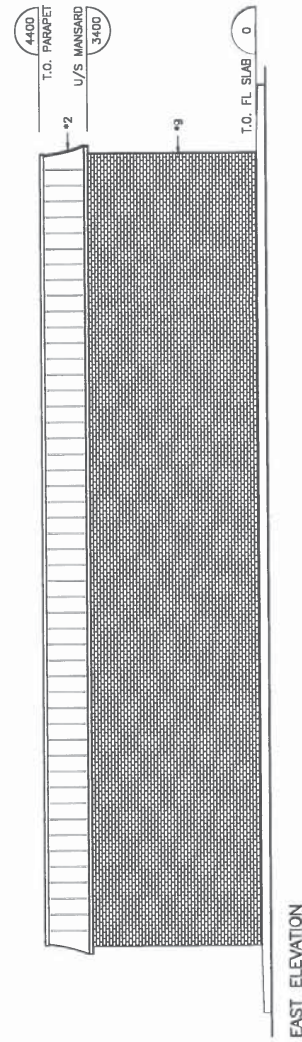


WEST ELEVATION

Schedule C - Building Elevations



NORTH ELEVATION



EAST ELEVATION

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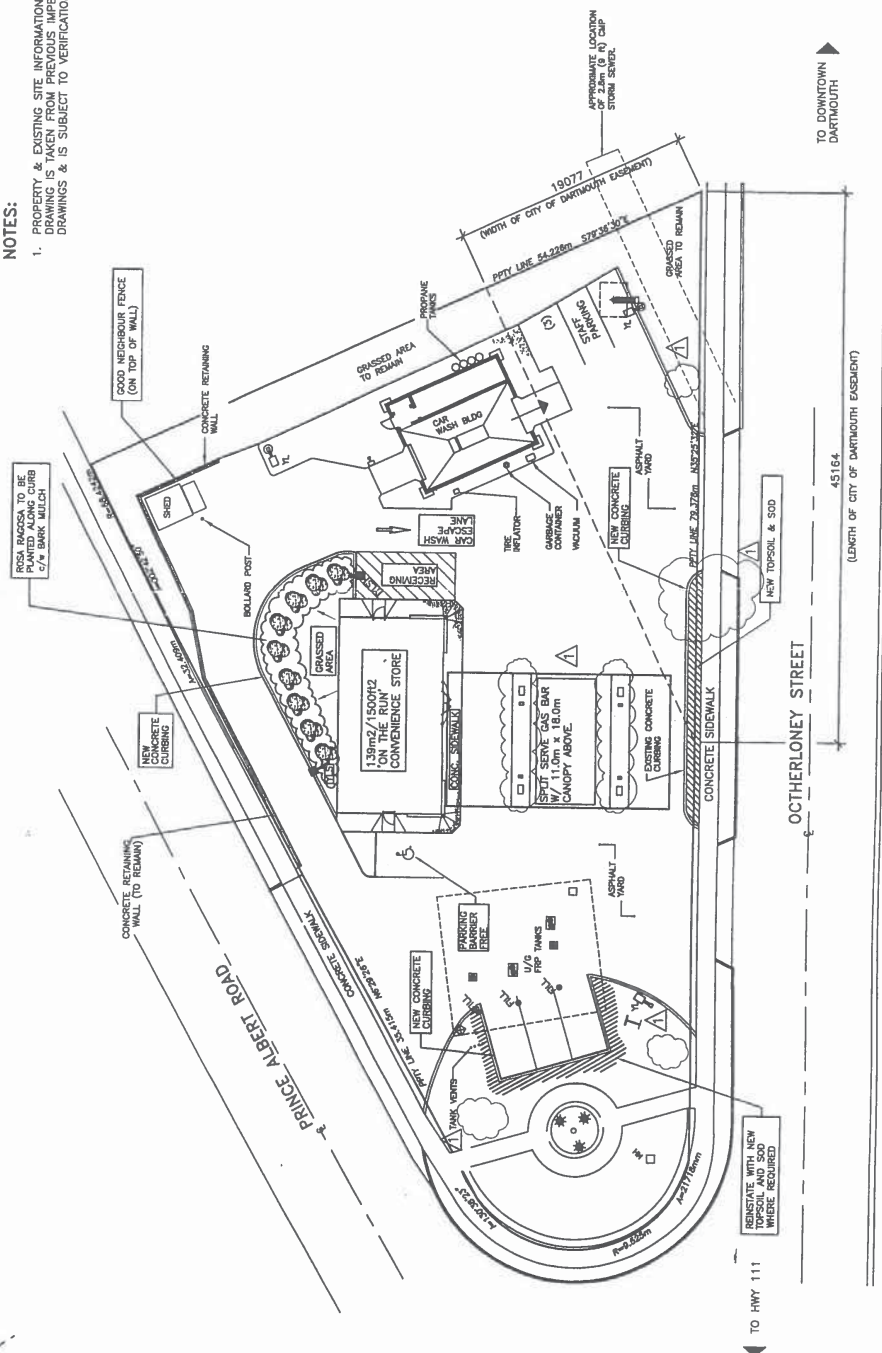
Project/Project 174 OCHTERLONEY STREET DARTMOUTH, N.S.			SAP No. SAP RWIN No. RWIN			32A0282-06P		
Title/Title LANDSCAPING PLAN			Schems Preparation: 03			Sheet/Feuille: 01		
Scale Enchâssé (22"x34") 1:200	Scale Enchâssé (11"x17") 1:400	Date 01 12 04	By/Par AMEC	P.M./d.P. E.B.	Rev.No./Rév. 1			

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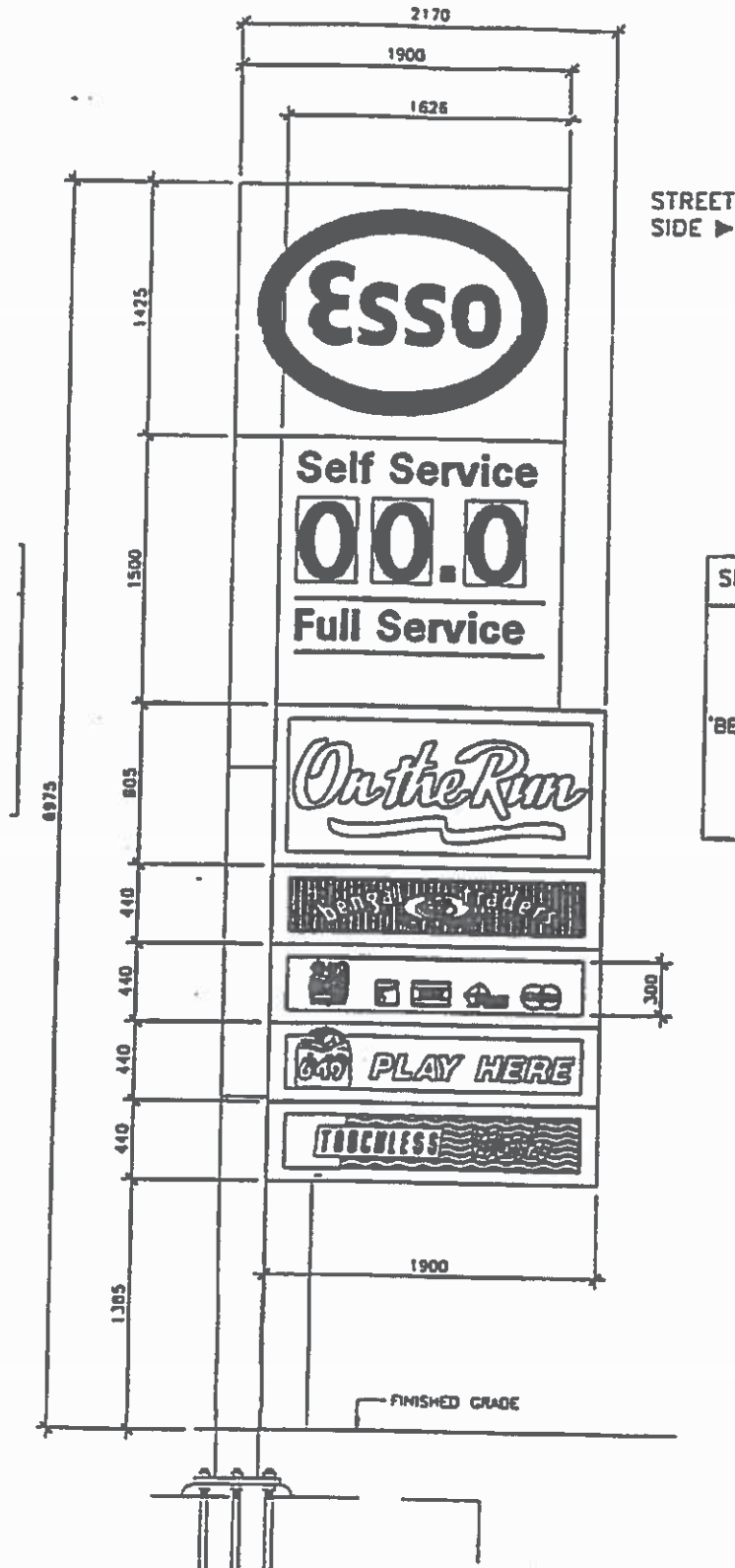
amec[®]
HALIFAX NOVA SCOTIA

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1. PROPERTY & EXISTING SITE INFORMATION NOTED ON THIS DRAWING IS TAKEN FROM PREVIOUS IMPERIAL OIL LIMITED DRAWINGS & IS SUBJECT TO VERIFICATION.



Schedule 'E' Ground Sign



SIGN DATA (NEW MID SIGN):

ITEM	m2	ft2
'ESSO OVAL' PANEL	2.71	29.17
'DIGITAL PRICE' PANEL	2.45	26.37
'ON THE RUN' PANEL	1.31	14.10
'BENGAL TRADERS' PANEL	0.51	5.49
'ROYAL BANK' PANEL	0.51	5.49
'LOTTO' PANEL	0.51	5.49
'CAR WASH' PANEL	0.51	5.49
TOTAL	8.51	91.60

SIGN AREA (PROPOSED 1900 SERIES SIGN—PER SIDE):

1 20 (22"x34" PLOT)
1 40 (11"x17" PLOT)

Aut.
8800197-13P-03-000

FOR IMPERIAL OIL USE ON

Attachment D
Relevant Policy from Downtown Dartmouth SPS

Policy B-9

Council recognizes the importance of the Starr Manufacturing and Greenvale School sites in the history of the Dartmouth and as a gateway to the downtown. A mixed use development will be encouraged on this block consisting of open space, heritage, and small scale commercial and residential components which blend with the character of the area. The development agreement process will be used to ensure a comprehensive approach which reflects the various community goals for the site¹². In evaluating proposals for the site, council shall consider the following criteria:

- a) that the proposal is consistent with the objectives for the site which are to encourage protection and promotion of the site's heritage features, provision of a trail link and other open space opportunities, and development of small or medium scale commercial or residential components;*
- b) the design of any buildings on the site reflects its role as a gateway to the downtown business district, its relationship to existing development on site and surrounding neighbourhoods, and its history as part of the Shubenacadie Canal system;*
- c) the unique heritage attributes of this site including the retention and stabilization of the Greenvale School building, the protection of the underground canal features on the northern portion of the site, and if feasible, opportunities to reuse structural elements of the Starr Manufacturing building;*
- d) the preservation and restoration of significant natural features on the site where feasible including mature trees, and water features related to the former stream bed running through the site;*
- e) that adequate provisions are made for pedestrian and bicycle circulation on the site including an extension of the Dartmouth multi-use recreation trail (Trans Canada trail) along the length of the site;*
- f) the design scheme of any proposed buildings, signs and lighting fixtures incorporates traditional design elements and materials to complement the traditional small town character of the area. (Refer to downtown urban design guidelines Policy D-1).*
- g) the provision of extensive landscaping in the form of suitable trees, shrubs, grassed areas and planting beds, particularly to enhance the aesthetics of any proposed parking areas on the site;*
- h) the impact of any additional traffic on existing street networks and the best means of accommodating traffic flow to, on and from the site; and any required upgrading to the existing street network;*
- i) the provision of adequate municipal sewer and water services to the site, and the treatment of existing underground infrastructure; and*
- j) remediation of environmental contamination on the site which meets the requirements of the Nova Scotia Department of Environment.*

¹² A development agreement will not be required for re-use of existing buildings within this block which are consistent with the uses permitted by the Business District Zone. Any major expansion or new development will be subject to approval of a development agreement.

Policy D-1

HRM should ensure that a high quality of urban design is provided for all major developments in the downtown area. To achieve this objective Council shall adopt the following design guidelines for consideration in the design and renovation of buildings and spaces in the downtown area:

- a) The scale, massing, and grain of future development should reflect the downtown's role as a people place and respect its historic, small town character. While specific direction is provided in each of the various policy sections within this plan, in general three to five storeys is the desired scale of development.
- b) The traditional street grid pattern and grain of development should be maintained and re-established in new and existing development.
- c) Building facades should maintain a consistent street edge except to provide access to rear parking areas. The use of interesting colour for building facades should be encouraged where it is complementary to the streetscape to add a sense of vibrancy to the area.
- d) The exterior architectural design of new buildings should be complementary to adjacent buildings of historic or landmark significance in terms of the building height and materials, rhythm, colour, and proportion of the building design elements. Traditional building materials such as wood shingle and brick are preferred. Architectural design details should be provided to encourage visual interest.
- e) Development should be oriented to pedestrians rather than cars. Surface parking areas should be designed to minimize the visual impact on the streetscape.
- f) Microclimate issues such as wind, solar orientation, and shadowing should be considered and capitalized upon in all new development or major renovation projects.
- g) Pedestrian street level activity should be encouraged in all development through the incorporation of outdoor cafes, ground floor uses, and uses that are open beyond daytime hours of operation. Consideration should be given to weather protection for pedestrians through use of decorative canopies and awnings.
- h) Public art should be provided on or adjacent to buildings.
- i) Opportunities to experience nature should be provided to soften the urban setting through the incorporation of roof top gardens, flower boxes, community gardens for vacant lots, and through the use of greenways through the business core.
- j) Important views from public parks and streets should be respected in the design and configuration of development, especially harbour and east-west street corridor views.
- k) Pedestrian circulation and access should be an important consideration of all development. In particular, public access to the water's edge should be protected and enhanced where possible.
- l) A high quality of design should be required for streetscape elements and furniture.
- m) Public safety should be a consideration in the design of new buildings to ensure the design of public spaces does not create opportunities for crime at any time, with special attention paid to placement and intensity of lighting, visibility, directional signage, and land uses which will provide opportunities for eyes on the street through incorporation of residential development and street level activity after normal working hours.